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STENOGRAPHIC RECORD

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY.

IN THE MATTER OF

CHARLES D. GAITHER,
Police Commissioner for
Baltimore City

VS

THEODORE JONES and
HENRY GROB, et al.

BEFORE: EUGENE O'DUNNE, J.

Docket A-579 - 1934.

December 11th, 1934.

No 20433 9
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TRANSCRIPT FROM NOTES OF
CLARENCE P. GOETZ

Official Court Reporter

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OFFICE AND HOME
TELEPHONES

fd 8 March 1935

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:
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: Docket A-579 - 1934.
:
:

Tuesday, December 11th, 1934.

The above entitled cause came on for hearing
before his Honor, Judge Eugene O'Dunne, on Tuesday, December
11th, 1934, at ten o'clock A. M.

Mr. Willis R. Jones appeared in behalf of the
Police Commissioner of Baltimore City.

*Fidelity
Fidelity*
Messrs. Harry C. Levin, Sigmund Levin, Emory
H. Niles, C. Arthur Eby, Isaac Lobe Straus, J. Paul Schmidt,
Charles F. Stein, Jr., James D. Shea, and Messrs. Schonfield
and Schonfield appeared in behalf of various claimants.

Klook
MR. JONES: I want to do as much as I can to ex-
pedite it, and I want to offer in evidence the description of
the coins turned over to the Police Department on or about

September 1st, 1934. This was made at the direction of the office of the Attorney General by officers of the Police Department and supplied to the Law Department for the purpose of filing in this case as an exhibit. If any of the counsel want the officers who made the exhibit here, they are available and can be brought into Court.

THE COURT: All right, Exhibit No. 1 is a list of the coins and dates and amounts and denominations is file as an exhibit.

(Paper referred to was thereupon marked and filed in evidence as Plaintiff's Exhibit No. 1).

THE COURT: Now, what is the next step, gentlemen?

MR. JONES: Your Honor, if I may interrupt the taking of the testimony for a minute, may I say to the Court and counsel first that when the bill of interpleader was filed we also filed an answer and said we were filing the bill and interpleader. Of course, it is immaterial to the Police Commissioner whether they answer under the answer or under the bill, but when the bill of interpleader was filed, at the same time I notified every person who has made any

claim to the Police Commissioner of the filing of this bill, and sending them a copy of it and informing them it would be set for hearing today and if they desired to make any claim at all, it would be necessary to get the claim into this Court today. Now, if there is anything else that Court or counsel want from the Police Commissioner, we will be glad to give anything we have. But I will ask your Honor to excuse me from being here and listening to all of this case because I have a lot of other things to do.

THE COURT: All right, you are excused.

MR. SCHONFIELD: If your Honor please, before Mr. Jones goes I think your Honor ought to have in Court the bucket in which the coins were found, as an exhibit in this case.

THE COURT: Who has it?

MR. SCHONFIELD: I think the Police Commissioner.

MR. JONES: Then I will have him send it over.

MR. STRAUS: Your Honor, I would like to make a suggestion. I understand the coins are now in the custody of the Clerk of this Court. I can understand it is not desirable, because it may be very inconvenient, to have the

coins themselves brought into the Court room. We have some witnesses of the Saulsbury family who wish to be permitted to look at these coins before they testify, and if the Court would just give a general order that counsel with any witnesses whom they desire to have look at the coins may be allowed to do so subject to the supervision of the Clerk of the Court, I think that will take care of it.

THE COURT: We will arrange that. The facilities will be accorded them either here or at the Safe Deposit box. I do not want to give any formal order that any counselor any person can go down and check them over. That might require too much or too frequent work. Before they are called on to testify, the opportunity will be afforded them, possibly in Court. Now, what is the next step?

MR. LEVIN: I think the Attorney General would make the statement that the money was turned over to the Police Department.

THE COURT: That is in his bill, isn't it?

MR. LEVIN: Yes, sir, that is in the bill.

THE COURT: Well, the bill is in evidence.

MR. JONES: No one disputes that, Mr. Levin

THE COURT: You might offer your bill in evidence.

MR. JONES: I will offer the bill in evidence.

THE COURT: Exhibit No. 2 is the bill of interpleader of Commissioner Gaither.

(Paper referred to was thereupon filed in evidence as Plaintiff's Exhibit No. 2.)

- - - - -

Thereupon - - -

THEODORE JONES,
one of the claimants, produced in his own behalf, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By the Court:

Q How old are you?

A Sixteen. lie

Q You live where?

A 132 South Eden Street.

Q (By Mr. Harry Levin): Is your father living?

A No, sir.

Q You are living with your mother?

A Yes, sir.

Q On August 31, 1934, where were you living?

A On Eden Street.

Q What number?

A 132 South Eden.

Q Living with your mother?

A Yes, sir.

Q Any other children?

A Yes, sir, but none living with us.

Q Is there anybody else living there besides
you and your mother?

A No.

Q What part of the house do you occupy?

A Second floor rear.

Q You rented it from someone?

A Yes, sir.

Q Do you know who from?

A Mr. Kalis.

Q And your mother paid eight dollars a month for
the rent of the second floor rear?

A Yes, sir.

Q How long had you been living there prior to the time this gold was found?

A Eight months.

Q Who is Mr. Kalis, this landlord, do you know him?

A Yes, sir.

Q Do you know where his office is?

A 406 Saratoga Street.

Q Your mother pays the rent to him?

A Yes, sir.

Q Do you know his first name?

A No, sir, I do not.

MR. EBY: Benjamin Kalis.

Q (By Mr. Levin): How many stories to the house?

A Three.

Q Who lives in the second floor front?

A I can't think of his name, it has slipped my mind.

Q All right, your mother will tell about that. How many rooms do you occupy on the second floor?

A Three rooms.

Q Who lived on the second floor, do you know?

A First floor rear Mrs. Ella D. D'Alesandro.

Q How about the first floor front?

A I don't know that, it is a long Jewish name.

Q How about the third floor?

A It is a Jewish lady up there too.

Q Is there a cellar to this house?

A Yes, sir.

Q Does it extend all the way under the house?

A Yes, sir.

Q About how wide is the cellar?

A Ten feet wide.

Q Do you know how deep it is?

A Three and one-half feet.

Q How is the cellar constructed, what is the floor made of?

A It is just dirt.

Q Dirt and what else?

A That is all.

THE COURT: What did you say is three feet deep?

THE WITNESS: From the ground to the top of the cellar.

THE COURT: The cellar is only three feet high?

THE WITNESS: Yes, sir.

Q (By Mr. Levin): Can you stand up in it?

A We had to stoop over.

Q The cellar, you say, was covered with dirt?

A Yes, sir.

Q Anything else?

A That is all.

Q How about oyster shells?

A The oyster shells were under the ground.

Q Under the dirt?

A Yes, sir.

Q What about the front part of the cellar?

A It is a divided off cellar.

Q What do you mean by that?

A One for each family.

Q How is it divided?

A It is boarded around with wood and each one has a door to it.

Q Little compartments in the front?

A Yes, sir.

Q One compartment for each floor I suppose?

A Yes, sir.

Q There are three of them there?

A Yes, sir.

Q What is in the rear of the cellar?

A Just a plain open rear.

Q Any furnace down there?

A No.

Q Is there any window or door?

A One small window in the rear and two on the side; no door.

Q How about the front?

A In the front of the cellar there is two windows.

Q Can you give the Court any idea how long the cellar is?

A No, I could not tell you that.

Q But as long as the house I suppose?

A Yes, sir.

Q Had you been in that cellar before the 31st day of August, 1934?

A Not in the back.

THE COURT: What part of the cellar did the second floor have?

THE WITNESS: The front.

Q (By Mr. Levin): Wait a minute, I want to get that right. You say up in the front part there are three little compartments?

A Yes, sir.

Q One for the use of each tenant?

A Yes, sir.

Q And in the rear part of the cellar there is nothing?

A Yes, sir.

Q Just a plain, ordinary cellar?

A Yes, sir.

Q You say you had been in that cellar before?

A Yes, sir.

Q What were you doing down there?

A Just playing around.

Q You were there on the 31st of August, 1934, when this gold was discovered?

A Yes, sir.

Q Who were you there with?

A Henry Grob.

Q Spell it?

A I can't spell it.

Q G-r-o-b?

A Yes, sir.

Q Had you been down there with him before?

A Yes, sir.

Q How many times before?

A About three times before.

Q What were you down there for?

A Sitting back in the back building. He wanted to make up a club in the back.

Q What sort of a club?

A Just for four or five boys to sit in, to play in in the day time.

Q Were the headquarters of the club supposed to be in the cellar?

A Yes, sir.

Q Are you sure it is only three feet high?

A Yes, about three feet or three and one-half feet high.

Q How tall are you?

A Five feet eight.

Q You could not stand up, could you?

A No, sir.

Q Was it the idea to sit around in the cellar?

A Yes, sir.

Q What part of the cellar did you use or expect to use for the club?

A We expected to use the back part.

Q There was no compartment or anything in the back part?

A No, sir, just plain.

Q What was the purpose there, what were you doing there on the 31st day of August, the day you found this gold?

A Henry and I went down into the cellar and we were sitting down for a while and he said something about digging a hole to put a cigar box in it.

Q What time did that happen?

A Around four thirty.

Q Before you started digging, did you see anything in the cellar?

A No, sir.

Q Were there any holes observable to you?

A No, sir.

Q Was there anything lying on the ground that you could see?

A No, sir.

Q In the back part of the cellar?

A No, sir.

Q Were there any indications that there was anything in the cellar floor before you started digging?

A No, sir.

THE COURT: What did you want to bury the cigar box for?

THE WITNESS: Just put there to put our money in that we got every week for dues.

Q (By Mr. Levin): You had not received any dues yet, had you?

A No, sir.

Q But you figured if you got it, at least, you would keep it there?

A Yes, sir.

Q How much dues did you expect to get?

A We didn't decide that yet.

Q Did you have your cigar box ready?

A Yes, sir.

Q A regular, ordinary sized cigar box?

A Yes, sir.

Q How did you propose to dig the hole?

A There were shutters laying down there to work on and we picked them up and threw them in the back part of the cellar and I had an ax and Henry had a big knife, corn knife, and I was the one hit the gold.

Q When you started to dig did you have any particular place where to dig?

A No, sir.

Q One part of the cellar was the same as the other, as far as you were concerned?

A Yes, sir.

Q Wherever you started to dig was simply by chance, is that right?

A Yes, sir.

Q What tool did you have?

A I had an ax.

Q What did Henry have?

A A corn knife.

Q What did you do?

A We started digging --

Q Tell us what part of the cellar you started digging?

A About in the middle.

Q Not in the place where the compartments were?

A No, sir.

Q How did you find the condition of the earth, was it soft or hard?

A It was hard.

Q How long did you continue to dig before you struck anything?

A About five or ten minutes.

THE COURT: How deep?

THE WITNESS: A foot.

Q (By Mr. Levin): What occurred?

A I hit it and chopped into the top and a piece flew out.

Q What flew out?

A A gold piece, twenty dollar gold piece.

Q What did you say you hit?

A I hit the coin with the butt end of the ax.

Q Did you know it was a coin then?

A No, sir.

Q What did it look like?

A It just looked like the same as we were always pulling out, oyster shells.

Q When you hit the coin, did you know what you had hit?

A No, sir.

Q What did you do in order to find it?

A We kept digging around the place until we got it loose and then pulled it up.

Q When you actually got to the point where you could see what it was, what did you see first?

A A twenty dollar gold piece.

Q Had it been in the can?

A Yes, sir.

Q You mean it came out of the can?

A Yes, sir.

Q What was the appearance of this can?

A It was a gallon syrup can.

THE COURT: Made out of what?

A Tin.

Q (By Mr. Levin): After you struck this can, how long did it take before you were able to get it out of the hole?

A About five minutes.

Q Was it heavy?

A Yes, sir.

Q Could you lift it yourself?

A Yes, sir.

Q Did you lift it yourself?

A Yes, sir.

Q What was the appearance of this can?

A It was all green and corroded.

Q Was there any sign of this can before you started to dig?

A No, sir.

Q No money was lying around, of course?

A No.

Q Did you have any idea of striking this can before you actually hit it with your tool?

A No, sir.

THE COURT: I understand it was in the can buried about a foot under the common clay and oyster shells on the floor of the cellar?

THE WITNESS: Yes, sir.

Q (By Mr. Levin): After you got the can out you saw it was green and corroded looking?

A Yes, sir.

Q How did you open the can?

A I hit it and it fell apart.

THE COURT: Was there any top on it?

THE WITNESS: There was a top on it but it was so green and rotten, it fell right off.

Q (By Mr. Levin): What did you see when you pulled it out?

A When I hit it to break it open, a twenty dollar gold piece flew out and I handed it to Henry -- I did not know exactly what it was -- and he looked at it and said it was a twenty dollar gold piece. Then we dumped it out on a cot we had down there. It was all corroded too.

Q Did you look at all of them?

A Yes, sir.

Q Were they all corroded?

A Practically all; only the pieces that were in the middle of the can.

Q As I understand it, all the gold except those in the middle of the can looked corroded?

A Yes, sir.

Q What do you mean by corroded looking?

A It was all green.

Q A greenish color?

A Yes, sir.

Q Then what did you do, put it on the ground?

A Yes, sir.

Q You put it on the cot?

A On the cot.

Q Where was the cot?

A The cot was right beside the hole.

Q After you put it on the cot, what did you do?

A We dumped it on the cot, then we took the hammer and were breaking it apart.

Q Breaking what apart?

A The gold pieces, they were all stuck together.

Q All of these pieces of gold were stuck together?

A Yes, sir.

Q Could you take them apart with your hand?

A No, sir.

Q Did you try?

A We tried it.

Q Did you know what it was?

A I did -- not at first I didn't.

Q Did you look at any of them?

A Yes, sir.

Q What did you see?

A I looked at it and I couldn't make out what it was, it was all green over it, and Henry took it and scraped it with a knife and said it was a twenty dollar gold piece.

Q Did he do that or did you do it to any of them?

A No, sir, he did it.

Q Then what did you do?

A I took mine upstairs -- I took some of it upstairs and he took some of it over his house.

Q How did you take it?

A He took it over in his shoes.

Q What shoes?

A The shoes he had on.

Q You mean he took the shoes off his feet and put a certain amount of gold in there?

A Yes, sir.

Q How did you divide it?

A Well, we counted the twenty dollar gold pieces first, then the tens and fives, and then took handfuls.

Q Fifty-fifty?

A Yes, sir.

Q What did you do with your share?

A I took mine up to the house.

Q Who did you see?

A My mother.

Q Didn't you forget to tell his Honor about one other thing you found when you were digging?

A Yes, sir; there was a boot on the top of the can.

Q What sort of a boot?

A A rubber boot that was split down the side.

Q What did you see first, was it the Boot or the

can?

A Well, the first thing was the boot.

Q The boot was on top of the can?

A Yes, sir.

Q A rubber boot?

A Yes, sir.

Q And your tool hit the boot, I suppose?

A Yes, sir.

Q Which did you dig out first, the boot or the

can?

A The boot came out first.

Q What has become of that boot, do you know?

A I don't know.

Q Was that given to the police?

A No, sir.

THE COURT: There was not any money in the boot,
was there?

THE WITNESS: No, sir. I showed the police the
boot but he did not take it.

THE COURT: As far as you know, the boot was left
there?

THE WITNESS: Yes, sir.

Q (By Mr. Levin): Now, you had gotten as far as where Henry had taken his away in his shoes, and you took your money upstairs?

A Yes, sir.

Q What is the next thing that happened?

A I took mine out and put it in a bucket of water to see if I could get the green stuff off and while I was doing that, a knock came on the door and Henry opened up the door and there was two policemen there.

Q How long did you have it in the bucket of water before the police came?

A Twenty or twenty-five minutes.

Q All of the coins you put in the bucket of water, were they greenish?

A Yes, sir.

Q Did you try to take the green off before you put them in the water?

A I tried to but I couldn't get it off.

Q When the police came you gave them the money you had?

A Yes, sir.

Q When you took it, did you give it to them in a bucket of water?

A No, sir; I had it out and into a cigar box in my desk drawer.

Q Was the green still on it?

A Most of it.

Q You turned over all the coins you had taken from downstairs, you turned them over to the policeman?

A Yes.

Q As far as you are concerned, that is the end of your connection with them?

A Yes, sir.

THE COURT: Did they ask for it or how did you happen to turn it over to them?

THE WITNESS: Well, I could not say anything about that because I don't know.

Q (By Mr. Levin): Did you know who the policemen were?

A Lieutenant Pfennig I think was one.

Q Who else, do you know?

A And there was a Sergeant, I don't know his name.

Q Did you go with him to the police station?

A Yes, sir.

Q And I suppose you told them how you found it?

A Yes, sir.

Q About the same thing you are telling now?

A Yes, sir.

Q How did Henry come to be with you?

A Well, ever since I have been in Baltimore, him and I have been pals, we always went around together, and just that day he struck luck that he was with me.

Q And at the time this was found, you were still pals and you were doing this together?

A Yes, sir.

Q And whatever was found there was found by both of you jointly?

A Yes, sir.

MR. LEVIN: I think that is all the questions I can ask.

THE COURT: Does anybody desire to cross-examine him.

MR. NILES: Yes, your Honor, I would like to.

CROSS-EXAMINATION.

By Mr. Niles:

Q Theodore, I want to ask you whether the entrance to the cellar is not through the yard in back of the front building?

A Yes, sir.

Q I have some pictures of it here and I want to ask you whether they show about what the place looked like. I hand you this picture and ask you whether that isn't a picture of the entrance to the cellar from the yard?

A Yes, that is the entrance.

Q That is in back of the --

A First floor front.

Q All right. When you get down into the cellar you find yourself in a cellar in which there are lockers for the various people who are tenants, do you not?

A Yes, sir.

MR. NILES: I offer this in evidence, your Honor.

(Photograph referred to was thereupon marked
Claimant's French Exhibit No. 1.)

MR. LEVIN: He is holding in his hand now your
Exhibit No. 1.

MR. NILES: Yes.

Q Now, Theodore, if you go down those cellar steps and turn to the left, is this picture what you see, the cellar there with the lockers on the right?

A Yes, sir.

MR. NILES: I offer that in evidence, marked French Exhibit No. 2.

(Photograph referred to was thereupon marked and filed in evidence as Claimant's French Exhibit No. 2.)

Q The lockers are on both sides, on the left side and right side, are they?

A As you go down the step, that is the side of our shed and on the right is the other people's.

Q I hand you another picture and ask you if that is a picture of the gate or door that is between the front part of the cellar and the part of the cellar where the gold was found?

A Yes, sir.

MR. NILES: I offer that in evidence.

(Photograph referred to was thereupon marked and filed in evidence as Claimant French Exhibit No. 3.)

Q To get to that door you simply, when you go down the cellar steps, turn to your left and go practically to the north wall of the cellar, don't you?

A Yes, sir.

Q Then the door is on the lefthand side. I hand you another picture, which is a picture taken of the back part of the cellar, and ask you if that is a picture of the place, as well as you can remember it, where the gold was found?

A Yes, sir.

MR. NILES: I offer that in evidence.

THE COURT: Let me understand that. Does the spot where you found the bucket of gold show in that last picture, Exhibit No. 4?

THE WITNESS: Yes, sir.

THE COURT: Show me where it is.

(Witness indicates to the Court.)

MR. LEVIN: Let us put a mark there. Did you say right here (indicating on photograph)?

THE WITNESS: Yes, sir.

MR. NILES: Just about where the man's feet show?

(Photograph referred to was thereupon marked and filed in evidence as Claimant's French Exhibit No. 4.)

THE COURT: In this French Exhibit No. 4, where the man is standing bent over, the place that you indicate where the bucket of gold was found buried in the ground, would be somewhere sort of between his feet and in front of him.

THE WITNESS: In front of him.

THE COURT: Now, he is bending over somewhat. Do I understand that this is the part of the cellar that you say is only three feet high?

THE WITNESS: Yes, sir.

MR. NILES: I think he said three and one-half feet.

MR. LEVIN: Three and one-half feet.

MR. NILES: I would say four.

MR. LEVIN: You did not measure it, did you?

THE WITNESS: Only just by looking at it.

MR. LEVIN: Mr. Goetz, I think you had better note that a pin point was inserted in Exhibit No. 4 at the place where he says the gold was found.

Q (By Mr. Niles): The picture I now hand you

is a picture that was taken of the ground about where you put your pin point, but some time after you found the gold. Does that show the ground approximately as it was when you left it or is it different?

A It looks different from the way we left it.

Q How was it when you left it?

A The pile of dirt was up against the wall.

MR. LEVIN: The pile of dirt shown in that picture was not there, you mean?

THE WITNESS: Yes, sir.

Q (By Mr. Niles): Did you ever see that sieve that was in that picture?

A Yes, sir.

Q Was it there when you found the gold?

A It was in the back part.

MR. NILES: I will offer that in evidence.

(Photograph referred to was thereupon marked and filed in evidence as Claimant's French Exhibit No. 5.)

Q Now, I thought this was a picture of the locker of your mother?

A No, sir.

Q I hand you another picture which I think is the

French
exhibit
#5
(dirt
moved)

northeast corner of the cellar opposite the door into the back cellar. Does that look like that cellar that is there in that corner?

A Yes, sir.

Q But that is not your mother's locker?

A That is not my mother's locker.

Q But she had one something like that?

A Hers is right at the door of the cellar.

*Jones
locker*

Q And it is used for keeping wood or coal or anything she wants to keep there?

A Yes, sir.

Q And you keep it locked ordinarily I suppose?

A Yes, sir.

MR. NILES: Now, I offer this in evidence.

(Photograph referred to was thereupon marked and filed in evidence as Claimant's French Exhibit No. 6.)

Q Will you look at Exhibit No. 4 and tell me, if you can estimate, how far it is from this door, which is the door into the cellar of the front part of the house, and this place where you put the pin mark showing where the door was? Have you got any idea?

A I have no idea.

Q Would you think it was thirty-five or forty feet?

A About thirty. I could not tell you exactly, I never measured it.

Q You know when you go from the door into the back cellar you have to stoop over pretty far, do you not?

A Yes, sir.

Q You said on direct examination I think, that you had only been in the back part of the cellar once or twice; is that right?

A Round three times.

THE COURT: About three times before this time, he said.

Q Was that just a few days before you found the gold?

A Yes, sir.

Q You did not say anything to Mr. Lellis about using the back part of the cellar, did you?

A No, sir.

Q How about the cot that was back there? What size cot was that?

A Around six feet long.

Use of rear cellar, permission

Q Can you show me where it was on one of those pictures?

A No, it was way in the back part of the cellar.

Q It was further back?

A Yes.

MR. NILES: I think that is all.

THE COURT: Does anybody else desire to cross-examine the witness.

MR. SCHENFIELD: If your Honor please, may I examine the witness?

THE COURT: On whose behalf?

MR. SCHENFIELD: On behalf of the estate of Henry Chenvin.

CROSS-EXAMINATION.

By Mr. Schenfield:

Q Theodore, just a few questions I would like to ask you. In your direct examination you mentioned a few of the tenants residing at 152 South Eden Street. Were there any other tenants besides those you mentioned?

A No, sir.

Q Did you know a man by the name of Henry Chenvin?

A No, sir.

Q Do you know whether anyone lived on the third floor at 132 South Eden Street?

A There was an oldish man lived there.

Q There was an old man there?

A Yes, sir.

Q Did you know what part of the building he occupied?

A Third floor rear.

Q Do you know how many rooms?

A There was only one that I know of.

Q There is only one room on the third floor rear
and he occupied that room?

A Yes, sir.

Q Did anyone live with him in that room?

A No, sir.

Q Do you know what his name was?

A No, I do not.

Q But you know he resided there?

A I knew he lived there.

*Cheney in
single room
attic*

Q Did he live there before you moved into the premises?

A Yes.

*lived there before
at Eden 1/34*

Q Do you know how long he lived there?

A No, I do not.

Q Do you know what his occupation was?

A No.

Q How often did you see this man?

A The only time I seen him was at twelve o'clock at night when he was coming home.

Q He always did come home late?

A He always came home around twelve o'clock.

Q Did you ever see him during the day?

A Very few times.

Q What do you mean by a very few times?

A I only seen him about three times altogether since I lived in the building, in the day time.

Q Where was he in the building when you saw him?

A In the hall way.

Q Going up to his room or going downstairs or outside?

A Going outside.

Q Did you ever see him in any other part of the building beside the hallway?

A No, sir.

Q Did you ever go up to the third floor?

A Yes, sir.

Q Did you ever see his room?

A Yes, sir.

Q How do you get into his room?

A Well, there was the Sergeant and Officer went in there.

Q That was after this money was found?

A Yes, after the money was found.

Q Did you ever go in before that?

A No, sir.

Q You never saw his room before?

A Never saw his room before.

Q Did he keep his door open or shut?

A Shut.

Q With a key?

A Padlock.

Q Where was this padlock on the door?

A On the outside.

Q Was it a big lock or small?

A It was a pretty big lock.

Q Did you ever see him in the cellar?

A No, sir, never seen him in the cellar.

Q Did you ever see any of the other tenants in the cellar?

A Only Mr. Fleischer.

Q Where does he live in that house?

A He lives on the second floor front.

Q Theodore, are there any electric lights or gas lights in that cellar?

A No, sir, no lights.

Q You mentioned you went down there in the afternoon about three o'clock?

A Around four o'clock.

Q Was it dark in the cellar?

A Yes, sir.

Q Very dark?

A Very dark.

Q How could you find your way in the cellar?

A I had a flashlight.

no electric
lights
gas
cellar

used
flashlight

Q Did Henry have a flashlight also?

A No, sir.

Q You carried a flashlight?

A I carried a flashlight.

Q And also the ax?

A And the ax, yes, sir.

Q Did Henry carry anything else beside -- I think you mentioned a knife?

A Yes, sir.

Q Anything else beside the knife?

A No, sir.

Q I think you stated you did not know what business this old man was in, is that right?

A I did not.

Q Did you ever see him carry any packages going in and out of the house?

A No, sir.

Q You mentioned something about a lid on this syrup bucket, as you called it?

A Yes, sir.

Q What happened to that lid?

A I don't know, sir.

Q Do you think it is still in the house?

A It might be down the cellar. All I seen when I got the can outside in the yard was just the sides of the can and the bottom;

Q You mentioned you had to break the lid off, is that correct?

A Yes, sir.

Q Did you turn the bucket over to the police or did they pick it up themselves?

A I turned it over.

Q But you did not turn the lid over?

A No, sir. I think it is still in the cellar.

Q Did the lid have any marks on it?

A No marks.

Q Any names of any kind?

A No names.

Q Was the lid round or square?

A It was round.

Q Was it of the same material as the bucket which you described to be of tin?

A Yes, sir.

Q Theodore, was this bucket which you described in any canvas or any other material?

A No, sir.

Q It was not?

A No, sir.

Q Was the gold coins in any sacks or just loose?

A Just loose.

Q And they were pretty hard to separate, as you say they were?

A Yes, sir.

Q How many trips did Henry make to take that money away, his share or part of it?

A He just made one trip over.

Q And he had all the gold coins in his two shoes?

A He had it in his both shoes and I think he had a small bit in his pocket.

Q A small bit in his pocket.

A Yes.

Q What pocket?

A In the left pocket.

Q Pants pocket?

A Pants pocket.

Q Did he have an overcoat?

A No, sir.

Q And the rest of the money which he did not take you took, is that correct?

A Yes, sir.

Q And you had a cigar box?

A Yes, sir.

Q What did you have in the cigar box?

A Nothing in it.

Q What was your testimony in reference to that?

THE COURT: Well, you heard it. He said he had a cigar box with a view to putting the dues in, if and when he got them.

Q (By Mr. Schonfield): You did not have any dues in the box at that time?

A No, sir.

THE COURT: There is no use going all over it.

Q (By Mr. Schonfield): Theodore, did you tell any of the other boys in your club that you were going to put this cigar box in this cellar?

A No, sir.

*Hew's
share for
complete
pocket shoes*

Q When did you and Henry decide to put the cigar box in the cellar?

A Oh, I forget the date.

Q Can you give us approximately what time? Was it a week or two weeks before you found the money that you decided or longer?

A I believe it was the same day we found the money.

Q What time of the day was it you decided?

A Four thirty.

dig ^{at} 4:30 PM

Q And as soon as you decided, you went right down in the cellar and started to dig?

A Yes, sir.

Q Do you remember this old gentleman dying in that house?

A Yes, sir.

Q Do you remember the date?

A No, sir.

Q Do you remember how long after he died that you found the money?

A No, sir.

Q Do you think it was longer than two weeks?

A I told you I was not home when he died.

Q But you heard people talk about his death?

A Yes, sir.

Q And you say you were up in his room after he died?

A Yes, sir.

Q So you knew he died?

A Yes, sir.

Q Do you know how long after his death you went down there to dig?

A No, sir.

Q Would you say it was more than two weeks?

A I suppose it was.

Q About two weeks?

A Yes, sir.

Q Do you know what the reputation of this old gentleman was in the neighborhood as far as being a spender is concerned?

(Question objected to; objection sustained.)

Q Did you ever discuss with the other boys this

old gentleman?

A No, sir.

Q Did you ever discuss it with Henry?

A Yes, sir.

Q What did you talk to Henry about, about the old gentleman?

(Question objected to; objection overruled; exception noted.)

A I heard he had a bucket upstairs and he had a habit of dumping it out the window at night around twelve thirty or one o'clock and it used to come down and our windows we could never keep them clean, and my mother hollered up at him, and Henry, of course, sees the windows all the time dirty and he asked me a few questions. I told him and he is the only one I told it to.

Q Did you discuss anything else about the old gentleman?

A No, sir.

Q Did you ever tell him he was a miser?

A No, sir.

(Objected to.)

THE COURT: Sustained as to what he said. Admitted as to what this boy said.

Q Did it ever occur to you he may have left some money in that house?

(Question objected to).

MR. SCHONFIELD: I want to get his opinion, your Honor, of what conclusion he came to after this man died.

(Objection overruled; exception noted.)

Q Did you come to any conclusion after this man died as to whether or not he left anything in that house?

(Question objected to.)

A No, sir.

Q What happened to that rubber boot?

A I suppose it is still in the cellar.

THE COURT: You went all over that in chief. He told you he did not know.

MR. SCHONFIELD: I think that will be all.

MR. STRAUS: Your Honor, I would like to ask the witness a few questions.

THE COURT: General, for the purpose of the

record, whom do you represent?

MR. STRAUS: I represent the Saulsbury estate, if the Court pleases.

THE COURT: All right, go ahead.

CROSS-EXAMINATION.

By Mr. Straus:

Q When you found this money, did you find it all in the can or was any of it scattered around in the earth?

A It was all in the can.

Q And you just dug the can out and when you took the can out, it was from the can that you took the money?

A Yes.

Q You had knocked, I believe, a twenty dollar gold piece out first, that flew out first?

A Yes.

Q Now, the lid of the can to which you referred was not squarely on it or was worn away a great deal, wasn't it?

A Yes, sir.

Q And you had not much trouble in opening the top or getting through the top of the can, had you?

A No trouble.

Q Now, with reference to the oyster shells, which you say you found there, when you found the can, was the can underneath the layer of oyster shells in the earth or was part of it or any part of it in in the layer of oyster shells, as well as you can remember?

A It was all around. As soon as I just touched the dirt about an inch, I hit something and it was the oyster shells.

Q In other words, you dug through the oyster shells, then when you got through the oyster shells an inch below, you got into the dirt and there was the top of the can; is that what you mean?

A Yes, sir.

Q Now, as to the location which you have marked on one of these pictures, I just want to ask you about that. Theodore, you remember making the pin hole here at the place about which you found the gold?

A Yes, sir.

Q You see a wall here in the cellar, a brick wall?

A Yes, sir.

Q Now, this house you live in, in the cellar of

*Oyster shells
on top of can*

which you found the gold, that is on the west side of Eden street, isn't it? It is on the righthand side as you go south?

A Yes, sir.

Q That would be the west side or Eden street.

Eden Street runs north and south, doesn't it?

A Yes, sir.

Q And the house in which you found the gold, in the cellar of which you found the gold, is on the west side of Eden street?

A Yes, sir.

Q And it looks toward the east?

A Yes, sir.

Q Now, there is a house on the north of it, that is, up toward Lombard street, then a house on the other side of it toward Pratt Street?

A Yes.

Q It is between two houses, one on each side?

A Yes.

Q Can you tell which wall this is? Is this the north wall or is this the south wall of the house?

A I couldn't tell.

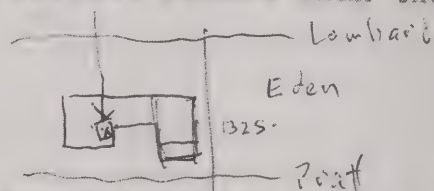
Lombard
Pratt 4 1325.

Q And where you were digging, could you tell near which wall you were digging, the northern side of the cellar or the southern side of the cellar? Were you digging on the side of the cellar near Pratt street or on the side of the cellar toward the other way, near Lombard street?

A It was closer to Pratt street.

Q Was it much closer to Pratt street than the other side?

A Not very much.



Q This pin hole here would indicate that you were digging right near this wall of bricks? About how far from the wall of bricks there were you digging would you say that pin hole is?

A About a half foot or foot out.

Q Just from a half foot to a foot?

A Yes, sir.

Q What is the top of the cellar, these wooden rafters?

A Yes, sir.

Q And these other things, are they pipes?

A Yes, sir.

MR. STRAUS: That is about all, if the Court pleases.

CROSS-EXAMINATION (Continued).

By Mr. Niles:

Q Theodore, the wall next to which you were digging runs north and south, doesn't it, the same direction as in front of the house?

A Yes, sir.

Q And the cellar, the back part of the cellar is narrow when you first go into it and then it widens out later?

A Yes, sir.

THE COURT: Any other questions?

Q (By Mr. Schonfield): Theodore, just one question. Was the earth around the place where this bucket was found any softer than any other part of that immediate cellar?

A No, sir.

Q It was of the same type?

A Of the same type.

Q (By Mr. Straus): I would like to ask you just this: As you were digging there and struck the earth after you got through the shells, was it damp or wet or perfectly

A It was dry.

Q You did not notice any moisture or wetness or dampness around there?

A No, sir.

Q None at all?

A None at all.

Q Well, it was in August that you made this discovery, wasn't it?

A I believe it was.

THE COURT: Are there any other claims represented here who have not participated in the cross-examination or examination direct?

MR. LEVIN: I understand from the bill there are at least five.

MR. SHEA: Your Honor, I represent the claimant from Chicago, Anna C. Klunk.

MR. LEVIN: Your Honor, I understand that now this young man has been cross-examined on behalf of Reuben Foster, on behalf of the Saulsbury estate, and on behalf of the Chenvin estate, and on behalf of Elizabeth French and Mary Findlay and that Mr. Shea, representing Mrs. Klunk, apparently has no questions, which leaves the other five people

who are not represented here by counsel today.

THE COURT: Now, that is all for Theodore. You may sit down now, Theodore.

(Testimony of the witness concluded.)

- - - - -

Thereupon - - - - -

HENRY GROB,

one of the claimants, produced in his own behalf, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Harry Levin:

Q How old are you, Henry?

A Fifteen.

Q Is your father living?

A No, sir.

Q Do you live with your mother?

A Yes, sir.

Q What is her name?

A Ruth Grob.

Q Where do you live?

A 227 South Caroline street.

Q Had you been in this house where Theodore lived before the day the gold was found?

A Yes, sir.

Q How many times?

A I used to go there every day.

Q For what purpose?

A To see Theodore.

Q And he would come to your house, I suppose, too?

A Yes, sir.

Q You were, as he says, pals?

A Yes, sir.

Q And you were in the process right then of organizing a club of some kind?

A Yes, sir.

Q What sort of a club?

A Just boys, play cards and so on.

Q How many times have you been in Theodore's house?

A Oh, he has lived there about eight months, he

says. and I have been there I guess every day.

Q Had you been in the cellar before?

A Yes, sir.

Q How many times before this day, every day?

A No, sir.

Q How often?

A For about three months straight we started going down there every day and playing.

habitual

Q Now, then, when was the last time you were there before the money was found?

A The day before that.

Q I want you to tell the Court whether on any of these visits, especially on the day before, did you see anything in the nature of that which you found in the cellar or anywheres about it?

A No, sir.

Q Was there anything about the cellar to indicate that this gold was there?

A No, sir.

Q Nothing that you could see?

A No, sir.

Q Of course, you had not done any digging until that particular day?

A We had not done any digging at all.

Q Why were you digging that day?

A We had a cigar box we wanted to plant in the ground, just as Theodore said, to put our dues in.

Q What tool did you have?

A I had a long knife and Theodore had an ax.

Q Where did he get the ax, do you know?

A He had it a long time.

Q And your knife was in your pocket, was it?

A No, sir, it was a real long knife.

Q Where did you get that knife?

A That was Theodore's also.

Q What time did you go down there that day for the purpose of digging?

A I should say about four o'clock.

Q You had walked about that cellar before, hadn't you?

A Yes, sir.

Q Was the ground beneath you firm or loose?

A Fine.

Q What could you see besides dirt?

A A few oyster shells all around there.

Q Who selected the spot where you began to dig?

A Theodore did.

Q Did he measure it in any way or just walk to it?

A No, sir, just walked to it. We thought it would be a good place.

Q Was there any particular reason for picking that fortunate spot?

A No, sir, just that it was against the wall.

Q How long did it take?

A I should say five minutes.

Q How much did you uncover in five minutes?

A About a foot.

Q How much of a place did you make, did you just go right down in the hole?

A No, we widened out about a foot too.

Q I mean before you discovered anything. What did you do first?

A We dug.

Q How did you go about it?

A We set the box down and measured how wide it would be, and then we dug.

Q How did you dig then, who did the digging?

A He was digging with the ax, then as he would loosen it I would take it out with the knife.

Q He dug with the ax and you meant to cut a hole about the size of a cigar box?

A Yes, sir.

Q And you say you went down about how far?

A About a foot.

Q Was the earth firm or soft?

A Firm.

Q Was there anything in the earth?

A Oyster shells.

Q Did the oyster shells go all the way down or just partly?

A I should say all the way down.

Q You hit oyster shells as you went down?

A Yes, sir.

Q Did you pull any of the oyster shells out?

A Yes, sir.

Q How did you take the dirt out of the hole?

A With this knife and our hands.

Q How long was that knife?

A About a foot and a half.

Q What was the first thing you knew about anything unusual?

A Well, he hit something sounded like of tinny to me, I didn't know what it was, and I thought it was probably just another oyster shell and I never paid any attention, and he kept digging and he kept digging and he felt it and we are digging around it and we saw it was a can.

Q Could you see it was a can?

A Not exactly because there was a rubber boot around it.

Q How did you get the boot out?

A We pulled the boot out.

Q Was the boot cut by your knife?

A No, sir, somebody must have split it and wrapped it around the can.

Q Was it wrapped around the can?

A Yes, sir; wrapped around it.

Q Was the boot lying on top of the can or wrapped

around it?

A Lying around the side of it like. It never came all the way around.

Q But if this is the can, the boot ran this way, cross wise (indicating)?

A Yes, sir.

Q You pulled the boot out, then what did you do?

A Then we started digging around the side of the can.

Q Could you see then it was a can?

A Yes, it was all rusted.

Q Did you open the can before you got it out of the ground?

A No, sir.

Q In other words, I understand you took the can out whole?

A Yes, sir.

Q What size can was it?

A I guess it was about nine inches high and about fifteen inches round.

Q What sort of a can did it look like to you?

A For packing tomatoes or something, I should say.

Q When you got the can out, was it open?

A No, sir.

Q Did it have a top to it or what?

A Yes, sir, it had a round lid to it.

Q It was a round can?

A Yes, sir.

Q Not a square can?

A No, sir, a round can. The lid was all rusted and had small dents in it like holes and the sides were all rusted and parts of it where we just touched it fell apart, then he took a hammer and hit it and the coins fell out.

Q Had the lid been taken off before the coin came out?

A No, sir, the coin fell out before.

Q Did you get the lid off at all?

A Yes, sir.

Q When did you do that?

A We took the lid off after we got it out of the ground.

Q What was the condition of the can?

A It was all green and rusted.

Q Did you have trouble getting it out of the hole?

A Yes, sir, it was heavy. Theodore lifted it himself.

~ 100002
→ 83 163.

Q How deep from the top of the cellar would you say the top of the can was?

THE COURT: From the top of the cellar?

Q I mean the surface of the cellar.

THE COURT: The surface of the ground.

A About a foot the top of the can, then the can ran about nine inches under.

Q All right, now. You opened the can and discovered what, what did you think it was?

A I knowed right away it was gold because there is a small window about nine inches in height and about a foot long and there was a little bit of light coming in there and then we put a searchlight on it and I saw it was a gold piece.

Q What was the appearance of this gold?

A Well, it was green too, corroded, black and green.

Q Was it all green?

A No, sir; the center around that was bright.

Q Was it lying there loose?

A No, sir, stuck together.

Q All stuck together?

A Not all of it, the center was.

Q Was it piled in order or in disorder?

A All rumpled up.

Q I mean it was not all stacked up against each other?

A No, sir.

Q It was just lying in the can as if it had been thrown in the can?

A Yes, sir.

Q What did you do about it?

A Well, we started dividing it up the best way we could, then I put mine in my shoes and took it home.

Q What size shoe do you wear?

A About five and one-half.

Q Could you get it all in your shoes?

A No, sir, I had a pocket.

Q What pocket, coat?

A No, sir, pants pocket.

Q How did you divide it?

A First we started giving twenties, then tens and fives, then we got tired of it and just took our hands.

Q What did you do with your share?

A I took mine home and my mother, she got excited and said, "Take it out of here," so then I took it up to the third floor to my sister's apartment and she got excited and called up my brother-in-law, so then he done his best to turn it over to the police, which he did.

Q Then the police came?

A Yes, sir.

Q Which policemen?

A Lieutenant Pfennig and the Sergeant.

Q He saw you then before you saw Theodore?

A Yes, sir.

Q And you turned over what you had to him?

A Yes, sir.

Q All of it?

A No, sir.

Q Only part of it?

A Yes, sir.

both holding out

Q What did you do with the other part?

A I left it where I had it upstairs and then later we turned the rest of it over.

} location
of
missing
gold

Q Then I suppose you made a statement to the police somewhat like you are making here?

A Yes, sir.

Q You told how you found it?

A Yes, sir.

Q At the time when this money was found, you were engaged in an enterprise with Theodore in digging this hole for the cigar box?

A Yes.

Q You did not live in that particular house?

A No, sir.

MR. LEVIN: Witness with you, gentlemen.

CROSS-EXAMINATION.

By Mr. Niles:

Q Henry, these are the pictures Theodore testified were the pictures of the place where the gold was found. That is Exhibit No. 4. Do you recognize that as the place where you found the gold?

A Yes.

Q Do you see that pin hole?

A Yes, sir.

Q Is that the exact place?

A I should say so.

Q You also recognize that as the door to the cellar from the outer area way?

A Yes, sir.

Q That was ordinarily kept open, wasn't it?

A Yes, sir.

Q That is Exhibit No. 1. Now, then, picture Exhibit No. 2, do you recognize that as a picture of the cellar under the front part of the house?

A Yes, sir.

Q And those lockers around there were kept closed, were they not?

A Yes, sir.

Q Then there was a door leading into the back part of the cellar and Exhibit No. 3 is a picture of the door, is it?

A Yes, sir.

Q And that was habitually kept closed?

A Yes, sir.

} 1. ties 355

Q And also locked?

A No, sir.

Q There was not any lock on it?

A No, sir.

Q Now, let me ask you this: You said you were down there in the cellar for about three months? *habit*

A I should say.

Q Before you found this gold. But Theodore said he had only been down there about three times.

THE COURT: No, he said in this particular part of the cellar.

Q (By Mr. Niles): Oh, you had previously been playing in the front part of the cellar?

A Yes, sir; we used to go chop wood for his mother and all.

Q How many times had you been in the back part of the cellar?

A About three times.

Q And the back part of the cellar was not used for anything, was it?

A No, sir.

*only recently
in back cellar*

Q And there was this low ceiling that you had to stoop to get under?

A It had some gas meters there.

*gas company,
electric
meters*

CROSS-EXAMINATION.

By Mr. Schonfield:

Q Henry, you stated you live at 227 South Caroline street?

A Yes, sir.

Q How far is that from 132 South Eden Street.

A A block and a half.

Q You stated you went to this house 132 Eden street every day?

close friends

A Yes, sir.

Q For a period of about seven months?

A Eight months.

Q Is that correct?

A Eight months.

Q Did you see an old man there in that house?

A Yes, sir.

Q Do you know what part of the house he lived

in?

A Yes, sir; on the third floor back.

Q Did you know what business he was in?

A No, sir, I do not.

Q How often did you see this man?

A Very seldom.

Q You know he died in there?

A Yes, sir, I heard of it.

Q Do you know when he died in that house?

A No, sir, I do not.

Q Do you know how long it was before the money was found that he died?

A No, sir, I do not.

Q How often did you go in the cellar?

A Well, we went down in the cellar a lot but not in the back part.

Q You only went in the front part?

A Front part of the cellar.

Q How many times did you go in the back part?

THE COURT: He just told Mr. Niles that some thing, about three times in the back part with Theodore.

Q Did you ever discuss with Theodore this old

gentleman?

A No, sir.

Q Is there any other way to get into the cellar besides this door in the hallway?

A Out in the yard.

Q Another door in the yard?

A Sure.

Q There are two ways to get into the cellar?

A I only know one, that is the yard.

Q There isn't any other yard?

A Not as I know of.

Q Do you know how many windows are in that cellar?

A Yes, sir; one small one on the side and one way back under the step in the rear.

Q Are there any windows in the house facing Eden Street?

THE COURT: Do you mean in the cellar or in the front of the house?

Q Are there any windows in the cellar leading to the front of the house?

A One of them under the step.

Q Would that show out into the street?

A No, sir.

Q There is no window in the front of the house that would show out into the street?

A No, sir.

THE COURT: You mean in the cellar.

MR. SCHONFIELD: In the cellar.

Q Could you look into the cellar from these windows?

A If you go under the step you could.

THE COURT: The step was sort of a hatch way, wasn't it?

THE WITNESS: No, sir, it was just a step and you would have to crawl to get under there.

Q (By Mr. Schonfield): How about the other one, would you also have to crawl to get under that?

A Do you mean in the back?

Q Yes?

A Yes, sir.

Q You would have to do the same thing?

A Yes, sir.

*long discussion
about windows -
pointless*

Q Did you have a flashlight also?

A No, sir, just Theodore.

Q You described a knife about that size (indicating)?

A Yes, sir.

Q Where did you get that knife?

A It was Theodore's.

Q You got the knife in his house?

A Yes, sir.

Q And the ax also in the house?

A Yes, sir.

Q He got the ax and knife in the house?

A Yes, sir.

THE COURT: Does it make any difference where he got the ax and knife? (Impatient)

MR. SCHONFIELD: Just to show that he brought it from his house, if your Honor please.

THE COURT: What is the difference, he was using it.

Q (By Mr. Schonfield): Was this bucket covered with any canvas?

A No, sir, a boot.

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weak
tumbling
p 69, p 72

Q Just the boot?

A Yes.

Q What was the condition of the ground?

THE COURT: Now, Mr. Schonfield, this examination ought to be on new matter. He has told you all about the ground. It was perfectly dry, about an inch under the surface, they struck oyster shells and met oyster shells all the way down to the boot, and the boot was split and wrapped around the can. Do you have to go all over it again?

MR. SCHONFIELD: I agree with your Honor it may not be necessary.

Q Henry, did you ever go up to this old man's room?

A No, sir.

Q Did you ever see the old man in the cellar?

A No, sir.

MR. SCHONFIELD: That is all.

- cuts off quickly

THE COURT: Any other interested parties desire to cross-examine him?

MR. STRAUS: I would like to ask him a few questions.

Sub-C

CROSS-EXAMINATION.

*Saulsbury -
the odd
boot*

By Mr. Straus:

Q I understood Theodore to say the boot was lying on top of the can?

A Sure.

Q Is it your recollection it was lying on top or wrapped around the can?

A It was not wrapped all the way round, it wasn't large enough. It was lying across, half way around.

THE COURT: Well, it was split, didn't you say?

THE WITNESS: Yes, sir; that is why it would not go all the way round.

THE COURT: Well, it was split, didn't you say?

THE WITNESS: Yes, sir; that is why it would not go all the way round.

THE COURT: Cut at the top and hanging over on the side.

THE WITNESS: Yes, sir.

Q (By Mr. Straus): Well, did your ax split it or was it split itself?

A It was split itself.

Q Then you got to the top of the boot, did the

layer of oyster shells stop or did they continue on down?

A They continued on underneath.

Q How deep down? The can, I think you said, was about nine inches deep?

A Yes, sir.

Q Did the oyster shells go all the way down to the bottom of the can?

A Yes, sir.

Q Was this can tin or copper, are you able to say?

A No, sir, I am not.

Q It had right thick sides, hadn't it?

A I don't think so.

Q I don't mean very thick, but it was thicker than tin ordinarily, wasn't it?

A No, sir.

MR. LEVIN: If your Honor please, don't you think the best proof is the can itself?

THE COURT: He wants to leave the impression on his mind it was like a can you pack tomatoes in.

Q Do you say you think it was tin or copper?

A I think it was tin.

Q Do you feel pretty sure about that?

A Yes, sir, because I never saw any copper cans around.

(Testimony of the witness concluded.)

- - - - -

Thereupon - - -

BESSIE JONES,

a witness of lawful age, produced on behalf of Theodore Jones and Henry Grob, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Harry Levin:

Q Mrs. Jones, you are the mother of Theodore Jones?

A Yes, sir.

Q How old is he?

A Sixteen.

Q Is your husband living?

A No, sir.

Q You reside now and you also resided on August 31st, 1934, at 132 South Eden Street?

A Yes, sir.

Q And you lived there about eight months prior to the time this gold was discovered, is that right?

A Yes, sir.

Q Who do you rent from?

A Mr. Kalis.

Q Do you know Kalis' first name?

A No, I don't know his first name.

Q You pay him how much rent?

A Eight dollars.

Q A month?

A Well, that is what we rented it for but we are under the Welfare, and, of course, he don't get the full amount.

Q What part do you occupy?

A The second floor rear.

Q What Theodore says about the other tenants is correct, is that right?

A Yes, sir.

Q When did you first hear of this discovery?

A The same day.

Q Had you been in the cellar before?

A Not in the rear.

Q You had never been in the rear of the cellar?

A No.

THE COURT: That is the low part where you have to bend down and crawl.

THE WITNESS: Yes, sir.

Q (By Mr. Levin): Whatever you store in the cellar you keep up front?

A Yes, sir.

Q You had no occasion to go back?

A No.

Q Did you ever look back there or could you see?

A No.

Q The first you knew, then, about this discovery was the day when the boys brought the money upstairs?

A Yes, sir.

Q Did you see the money?

A Yes, sir.

Q Did you see the container?

A Yes, sir.

Q Was it tin or copper?

A To tell you the truth, I didn't get a chance to examine it, but I think it was.

Q Was what?

A I think it was tin.

Q Did you see the gold?

A Yes, sir.

Q You only saw the part Theodore had?

A Yes, sir.

Q You did not see the whole fund?

A No.

Q What did it look like to you, what was the appearance of it?

A It looked like money.

Q What was the color of it?

A Yellow.

Q Was there any green about it?

A Yes, sir.

Q Where was the green?

A Well, all of the pieces were stuck together. It was like dirt and corroded together.

Q You could see that?

A Yes, sir.

Q Did you handle any of it?

A Yes, sir.

Q And was any of it in your hand stuck together?

A Yes, sir.

Q How many pieces would you say were stuck together?

A Some of them had four and five pieces stuck together tight.

Q Did you try to open them up?

A No.

Q Were any of them single?

A Oh, yes.

Q Were they small pieces or large pieces?

A Small pieces.

Q There were small and large pieces, weren't there?

A Well, some were.

Q Which were stuck together, do you remember?

A Well, a little bit of all.

Q Did you make any attempt to separate them?

A No, we were going to separate them in boxes, just the large pieces from the small.

Q Theodore said something about putting some of the coins in a pail of water?

A Yes, sir, he did, when he first came up.

Q How long after he had come that did the police come?

A It wasn't so very long, just a few minutes.

Q When the police came did you pour the water out?

A No, we had that already drained out and put in boxes and he had that in his writing desk drawer.

Q Were they separated then?

A No, he just placed them in however he could.

Q I mean were they separated one piece from the other before the police came?

A You mean the pieces?

Q The pieces of gold?

A No.

Q They were still stuck together?

A Yes, a lot of them.

Q Did the water free any of the green corrosion?

A I don't think it did much but some.

Q Then the police took the gold away and that is the last you know about it?

A Yes, sir.

MR. LEVIN: Your witness, gentlemen.

CROSS-EXAMINATION.

By Mr. Niles:

Q Mrs. Jones, you say you have never been in the back part of the cellar?

A No, sir.

Q You were on the second floor I think you said?

A Yes, sir.

Q And you had the right to one of those lockers in the front part of the cellar?

A Yes, sir.

Q The back part of the cellar was closed by a gate, wasn't it?

A There was a door in between there; yes, sir.

MR. MILES: I think that is all.

CROSS-EXAMINATION.

By Mr. Schonfield:

Q Mrs. Jones --

MR. HARRY LEVIN: I want it to be understood in asking these questions Mr. Schonfield is making the lady his own witness. This is not cross-examination.

THE COURT: I am not much interested in whose witnesses they are, what we want to do is get at the facts. Go ahead and cross-examine.

MR. LEVIN: I agree with your Honor on that, but I only brought her here to establish these facts and not prove his theory.

THE COURT: What is the use talking about theory now? Wait until there is an objection and then I will rule on it.

Q (By Mr. Schonfield): Mrs. Jones, did you know Henry Chenvin?

A I seen him several times.

Q Do you know where he lived?

A Yes, sir.

Q Where did he live?

A Third floor rear.

Q In what house?

A In the house 132 South Eden Street.

Q Do you know how long he lived there?

A No, I don't know how long he lived there.

Q Did you ever see him in the cellar?

A No, sir.

Q Did you know what his occupation was?

A No, sir.

Q Did you ever speak to him?

A Yes, I argued with him?

Q You argued with him?

A Yes, sir.

THE COURT: What do you mean by arguing with him?

THE WITNESS: As my son said, he used to keep a vessel over me at night and dump it out over my windows.

THE COURT: You mean a chamber?

THE WITNESS: Yes, sir.

THE COURT: He would throw it out the window and hit your windows?

THE WITNESS: Yes, sir.

Q (By Mr. Schenfield): Your rooms were below his?

A Yes, sir.

Q Do you know what happened to him?

A He died.

Q Do you know when he died?

A Yes, sir.

Q When did he die?

A He died the latter part of September.

Q Was that before the gold was found?

A Well, I may be mistaken, your Honor. Last part of August I meant to say.

THE COURT: What they want to know is, did he die before the boys found the gold?

THE WITNESS: Yes, sir, he died about two weeks before the gold was found, something like that.

THE COURT: That would be around the middle of August?

THE WITNESS: Yes, sir.

Q (By Mr. Schonfield): Did Theodore ever discuss with you this Mr. Chenvin?

A Yes, sir.

Q After his death?

A No, sir.

Q What did he discuss with you prior to his death?

A Well, just about his dirtiness all over the building.

Q The same thing you have described to his Honor?

A Yes, sir.

CROSS-EXAMINATION.

By Mr. Straus:

Q You say that these coins were put in water?

A Yes, sir.

Q Were they put in a basin of water or a bucket?

A They were put in a bucket.

Q How long did they stay in the water before you took them out?

A I don't just know exactly, I wasn't paying much attention to the child exactly.

Q Was it a half hour, would you say, or an hour?

A No, they were not in there that long.

Q Could you tell us about how long?

A To tell you the truth, I was busy and I just did not pay any attention how long they were in the water.

Q Could it have been a half hour or quarter of an hour?

A I don't suppose it was any longer, if it was that long.

Q Mrs. Jones, when you took the coins out of the bucket of water, did you dry them or polish them or anything like that?

A No.

THE COURT: Did you take them out or the boy?

THE WITNESS: The boy did.

Q (By Mr. Straus): Were you there?

A Yes, sir.

Q What did you do, dry them with a cloth?

A No, sir, put them in the box.

Q You placed them still wet in the box?

A Yes, sir.

Q Then how long after you took them out did the police come?

A It wasn't very long, about twenty-five minutes or something like that.

Q Even after you took them out, some of them were still stuck together?

A Yes, sir, and wet.

Q And they were still green when you took them out?

A Yes, sir.

Q (By Mr. Schonfield): Mrs. Jones, did your son discuss with you that he was going down to enter the cellar on the day he found the gold?

A Well, they had mentioned in the kitchen about going down to fix a place to make a club room.

Q He spoke to you about it?

A Yes, sir.

Q Did you see him go into the cellar with the ax and knife and the flashlight?

A No, the ax and knife and the things were in the cellar.

Q Do you know who put those instruments there?

A They belonged to me.

MR. SCHONFELD: That will be all, thank you.

(Testimony of the witness concluded.)

- - - - -

Thereupon - - - -

G. RAYMOND FINK,

a witness of lawful age, produced on behalf of Theodore Jones and Henry Gros, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Harry Levin:

Q That is your name?

A G. Raymond Fink.

Q What is your address?

A 2827 Chesterfield Avenue.

Q You are a member of the Baltimore Police Department?

A Assistant Secretary of the Police Commissioner.

Q In charge of what?

A Financial department.

Q You were asked to bring the container in which this gold was found, have you brought it with you?

A Yes, sir.

Q Where did you get that container this morning?

A From our property room.

Q Where has it been?

A In the property room ever since it came into our possession.

Q Does it have a tag?

A It does.

THE COURT: This is the thing they call the bucket the gold was in?

THE WITNESS: Yes, sir.

Q (By Mr. Levin); When does the tag show it was

received?

A August 31st, 1954.

Q From that date until this morning it has been in the property room?

A That is right.

MR. LEVIN: I offer the bucket in evidence.

(Container referred to was thereupon marked and filed in evidence as Jones Exhibit No. 1.)

THE COURT: General, I am not a chemist, but I would be very much inclined to think it was proper.

MR. STRAUS: Yes, it is proper.

THE COURT: Of course, if it is proper we can have it analyzed. For the purpose of the record, [it is a bucket, dilapidated, disintegrated, covered with what appears to be verdigris inside and outside, of a completely green color.] Whether it is tin or whether it is copper, I do not pretend to say.

MR. LEVIN: I am going to ask the Court for permission to take a photograph of it and have the photographer supply the color as it is on here.

MR. STRAUS: It is offered in evidence, is it?

MR. LEVIN: Yes, I offered it in evidence.

THE COURT: What is the purpose of going to all of that expense? Why not keep it as an exhibit and later on, if it becomes necessary, you will all have permission to have it photographed.

MR. LEVIN: All right, sir. I wonder if the Court has noticed there are imprints against the bucket of what appears to be coins.

THE COURT: I noticed portions or places where it does not have verdgris on it, small spots about the size of a dime.

MR. STRAUS: If the Court please, added to your Honor's description for the record, it might be very properly said that the corrosion is quite deep and at a number of points, entirely through the middle.

THE COURT: I would think so, yes. There are spots on it that are not corroded on the inside and, in general, what we might estimate to be a gallon bucket, roughly speaking.

CROSS-EXAMINATION.

By Mr. Straus:

Q Mr. Fink, was this receptacle or can or bucket, as it is called, which you have just produced with a tag on it, from the possession of the Police Department, was it in the condition when the Police Department received it in which it appears now?

A I am unable to answer that, I was not there when it was received.

Q Have you seen it before today?

A Yes, sir.

Q How far back was it that you first saw it?

A I would imagine it was some time in September.

Q In September of 1934?

A Yes, sir.

Q And was it then in the same condition in which it is now?

A Yes, sir.

(Testimony of the witness concluded.)

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Thereupon - - - - -

HENRY GROB,

one of the claimants, heretofore produced, sworn and examined in that behalf, was recalled and testified further as follows:

DIRECT EXAMINATION.

By Mr. Harry Levin:

Q Do you recognize the remains of that can?

A Yes, sir.

Q Is that the can in which the gold was?

A I am positive.

Q You are sure of that?

A Yes, sir.

(Testimony of the witness concluded.)

- - - - -

MR. STRAWS: Your Honor, might it not serve everybody's convenience to keep that can in Court?

THE COURT: Oh, yes, he can leave it here until we finish with it. We will be responsible for it.

MR. HARRY LEVIN: Your Honor, as far as our claim is concerned, I want to rest at this point.

THE COURT: All right. Now, what next claimant desires to begin producing any testimony?

MR. SCHONFIELD: If your Honor please, I have three witnesses, two of whom are from out of town. If it is satisfactory to your Honor and counsel, I would like to call them.

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Chapman

THE COURT: All right, that is agreeable.

Thereupon - - - -

HARRY GAMERMAN,

a witness of lawful age, produced on behalf of the Estate of Henry Chenvin, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Schonfield:

Q Mr. Gartnerman, where do you live?

A 2404 Brookfield Avenue.

Q What is your occupation?

A Jeweler.

Q Where is your business?

A 510 East Baltimore Street; at present 428 East Baltimore Street.

Q How long have you been in the jewelry business?

A For thirty-seven years.

Q In Baltimore how long?

A In Baltimore thirty one.

Q Did you know Henry Chenvin?

A Yes, sir.

Q How long have you known him?

A About thirty-three years.

Q Do you know how long he was a resident of Baltimore?

A About twenty-four or twenty-five years.

Q Do you know what his occupation was?

A Jewelry.

Q Did you ever have any business dealings with him?

A Yes, sir.

Q Will you kindly describe to his Honor the nature and character of the business which you have with Mr. Chenvin?

MR. HARRY LEVIN: We object to a question as broad as that.

THE COURT: We are not quite interested in that. Get down to what you want to prove.

Q (By Mr. Schonfield): Where did he have his store?

A He had his store 214 South Broadway.

Q What kind of a store?

A Jewelry store.

Q Did you do business with him?

A Yes, sir.

Q Do you know how long he was in business there?

A Several years. Previous to that, he was near Caroline.

THE COURT: When are you talking of?

THE WITNESS: The last he was in business was 1915 or 1916, before he took sick.

Q (By Mr. Schonfield): What do you mean he took sick?

A He lost his memory.

Q And since that time, since 1915 or 1916 --

A He was for a year in a sanitarium, then he came out and I did not know what was the matter with him, but a couple years later he started to remember more --

MR. LEVIN: We object to this description of this man's illness.

(Objection overruled; exception noted.)

Q Continue with your statement.

A He came out and never remembered what business he was in or what he did, and I helped him out with a little money and he started to selling papers, for eleven years he was selling papers, and he made a living out of that. But he

had to be helped out to a certain extent. I knew he had some money from before. I asked him where the money was --

MR. LEVIN: We object to this.

THE COURT: I will admit it subject to exception. I do not know what it is. Exception to the ruling. Go ahead.

A (Continuing): I asked him what happened to his money before he was in the jewelry business. Sometimes he says he has got it and sometimes he says he don't know where it is. But when he was in the jewelry business he used to handle a lot of gold in those days. He used to send it to the mint and in return get gold for it.

MR. LEVIN: Is a motion in order now, your Honor, to strike that out?

THE COURT: It always is, but if that is all he knows, that is immaterial. I do not know whether the time has come to rule on it yet.

Q (By Mr. Schonfield): Mr. Gamerman, do you know where Mr. Chenwin lived?

A Towards the last, the last seven or eight years he lived at 132 South Eden Street.

Q Do you know where he died from?

A I found him in the hospital where they took him

out from 132 South Eden Street.

Q Do you know what part of the year it was?

A It was late in August, I believe.

Q Of this year?

A Of this year.

THE COURT: How old are you?

THE WITNESS: Fifty-one.

THE COURT: How old was Chenvin?

THE WITNESS: Fifty-one.

THE COURT: He was only in business twenty-four years?

THE WITNESS: He was in business twenty-four or twenty-five years in Baltimore.

THE COURT: Up to the time he died, you mean?

THE WITNESS: Yes, sir, he was in business about seven or eight years before he took sick. Then he was in the paper business, selling papers.

THE COURT: He was in the jewelry business for seven or eight years?

THE WITNESS: Yes, sir, right here in Baltimore.

THE COURT: What years was he in the jewelry business?

THE WITNESS: From 1929 or 1928 to 1916.

Q (By Mr. Schonfield): Mr. Garmann, you don't mean 1928 or 1929, do you?

THE COURT: What years was he in the jewelry business?

THE WITNESS: From 1916 -- he came to Baltimore in 1908 or 1909.

THE COURT: Where did he come from?

THE WITNESS: From Russia.

THE COURT: How old was he when he came here in 1908?

THE WITNESS: About twenty-seven or twenty-six.

THE COURT: Well, as far as you know, you don't know whether he went in any business when he came here.

THE WITNESS: He was in the old country in the jewelry business.

THE COURT: Was he in the jewelry business over there?

THE WITNESS: Yes, as a jeweler by trade.

THE COURT: He came to this country as a young man twenty-seven years of age, in 1908?

THE WITNESS: Yes, sir.

THE COURT: Then he went in the jewelry business?

THE WITNESS: Yes, sir.

THE COURT: When did he go to live at 132 South Eden Street?

THE WITNESS: About 1927 or 1926.

THE COURT: And he was then in the jewelry business?

THE WITNESS: No, he wasn't in the jewelry business then.

THE COURT: This was after he had lost his memory?

THE WITNESS: Yes, sir.

THE COURT: He went to live there after he came out of the hospital?

THE WITNESS: Yes, sir, after he came out of the hospital, he lived in different houses.

THE COURT: How long did he live in this house?

THE WITNESS: About seven or eight years.

THE COURT: What years were they?

THE WITNESS: Between 1927 and 1934.

THE COURT: When did you say he died?

THE WITNESS: He died this last August.

THE COURT: What date?

THE WITNESS: I can't remember.

THE COURT: The last part of this August?

THE WITNESS: Yes, sir, your Honor.

THE COURT: Was he alive or dead when this gold was reported found in the newspapers?

THE WITNESS: When this gold was found he was dead about ten days.

Q (By Mr. Schonfield): Mr. Gamerman, then I understand your testimony is that after his Broadway business, he was not engaged in any other business?

A No, sir.

Q That was up to 1916?

A Yes, sir. When he was in 214 South Broadway I used to do a lot of dealings with him. His specialty was buying up all old gold and silver and sending it to the Mint. In those days you could get money order or gold money. We used to generally get it in gold money and he told me he was ready to buy --

MR. LEVIN: We object.

THE COURT: I will take it subject to exception.

A (Continuing): He was ready to buy the house where he lived. I asked him if he has got the money for it and he said, "Yes, I got it in gold money to buy that house." I lived out of town for a couple of months. When I came back I found him in the City Hospital. But previous to that, his character was good. He was in business and some houses used to trust him as high as \$3,000.

THE COURT: You were in the jewelry business too?

THE WITNESS: Yes, sir.

THE COURT: Did you used to send gold to the Mint and get coin back for it?

THE WITNESS: Yes, sir, your Honor.

THE COURT: What years did you do that?

THE WITNESS: Until the war, until 1914.

THE COURT: What years, to your knowledge, did he send gold to the Mint and get coin back for it?

THE WITNESS: From 1911 to 1914.

THE COURT: You said he did not go into business until --

THE WITNESS: He came here in 1908 or 1909.

THE COURT: From 1911 to 1916, he used to do that?

THE WITNESS: For a short while he worked for Jenkins, the jeweler, then he started for himself and his specialty was buying up old gold, Judge.

THE COURT: How much, to your knowledge, gold would be sent to the Mint at one time and get gold money for it?

THE WITNESS: Two or three hundred dollars.

THE COURT: And he would get it in gold coins?

THE WITNESS: Yes, in gold coins.

THE COURT: Did you ever look at the dates of the coins?

THE WITNESS: No, sir, I never looked at the dates of the coins?

THE COURT: Were they new, freshly coined money from the Mint?

THE WITNESS: I could not tell you, your Honor.

THE COURT: When he sent two or three hundred dollars in gold there and he would get it back, what would it be in?

THE WITNESS: Mostly \$20 gold pieces.

THE COURT: Would he get gold paper certificates?

THE WITNESS: Whatever you requested, you could get.

THE COURT: He would get \$20 gold pieces.

THE WITNESS: Twenties, tens, and different coins.

THE COURT: A while ago you said twenties.

THE WITNESS: Mostly it used to be twenties.

THE COURT: How much did you ever see him get and how often?

THE WITNESS: For two years I used to buy from him myself --

THE COURT: Now, answer my question. How much gold did you ever see him get from the Mint in gold coins of any denomination?

THE WITNESS: I can't give you that definitely.

THE COURT: Well, about?

THE WITNESS: Every month he sent off a shipment.

THE COURT: How large a shipment?

THE WITNESS: Two or three hundred dollars.

THE COURT: Two to three hundred dollars every month?

THE WITNESS: Yes, sir.

Q (By Mr. Schonfield) Before Mr. Chenvin went to the hospital, I think you said in 1914 --

A 1914.

Q Did you appraise his store?

A Yes, sir.

Q What was the value of his business at that time?

(Question objected to.)

A I took an inventory and it was \$14,000.

THE COURT: I will take it subject to exception.

Q What was the value of the business at that time?

A He had stock on hand of \$14,000 and he used to be in the installment business. He had a big account of about \$4,000 or \$5,000.

Q Did you have any conversations with Mr. Chenvin prior to his death in August, 1934?

MR. LEVIN: Objected to.

THE COURT: Subject to exception.

A Every day he used to come into my place twice daily.

Q What were the conversations, anything about any gold coins?

MR. LEVIN: We object to that.

THE COURT: Same ruling.

Q Did he discuss his business affairs with you?

A I knew when the run on the bank, on the Union Trust Company, he was there, and around the time of the Baltimore Trust failure he had an account there, but he never said he had money, but I knew that he used to have money because his sister used to send the money and I used to distribute it every month, what his sister used to send him for the last eight years.

Q Mr. Samman, did you ever visit him at his house?

A Occasionally.

Q Where did he live?

A 136 South Eden Street, on the third floor rear.

Q How did he make a livelihood?

A He used to sell papers and his sister used to
lend him about a hundred dollars a year and I used to give
him every week and pay his rent.

MR. SCHWETZ: Witness with you.

MR. LEVIN: I first want to make a motion to
strike out of the record the answers to the questions I
objected to.

THE COURT: I will reserve that until his testi-
mony is closed.

MR. LEVIN: We have no cross examination.

CROSS-EXAMINATION.

By Mr. Eby:

Q When was it you say Chenvin went to live at
142 South Eden Street?

A About seven years ago.

Q How do you know that?

A I used to pay his rent.

Q To whom did you pay the rent?

A I paid it to Chenvin.

Q Don't you know about a year ago the house was
completely vacant?

A No, he was there, he was always there. He changed three landlords while he was there.

Q Did you ever pay any rent to Mr. Kalis?

A Down the American Realty Company?

Q Yes.

A Yes, I paid him.

Q Was he in there at the time Mr. Kalis took charge of collecting rents?

A Yes, sir.

Q You are quite sure of that?

A Yes, sir.

Q You said when you shipped gold to the Mint you got back new coins, didn't you?

A New coins, yes, sir. They did not specify what year but when they come from there they were always new. Gold, if it does not lie in a wet place, keeps shiny all the time, twenty-two carat gold.

REDIRECT EXAMINATION.

By Mr. Schonfield:

Q Mr. Gammernan, you described the gold coins as new coins. I want your evidence as to whether it was new in

appearance or new in coin?

A New in appearance.

Q Did you notice the dates on them?

A I can't remember. There were thousands and thousands of them and I can't remember the dates.

THE COURT: He says gold is always shiny and he did not look at the dates.

(Testimony of the witness concluded.)

- - - - -

MR. LEVIN: Is it proper to renew that motion, your Honor?

THE COURT: I will still reserve it. Let the record show Mr. Levin renews it and I still reserve the ruling on it.

Thereupon - - -

HETTY AARONSON,

a witness of lawful age, produced on behalf of the state of Henry Chenvin, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By the Court:

Q What is your address?

A 1326 East Tenth Street, Brooklyn, New York.

Q (By Mr. Schonfield): Mrs. Aaronson, are you the administratrix of the estate of Harry Chenvin?

A Yes, sir, I am.

Q MR. SCHONFIELD: We offer in evidence, if your Honor please, certified copy of the letters of administration of Harry Chenvin?

(Papers referred to were thereupon marked and filed in evidence as Chenvin Exhibit No. 1.)

Q Mr. Chenvin was your brother?

A Yes, sir.

Q Do you know anything about the facts of this case?

A All that I know is that ---

MR. LEVIN: Your Honor she is a party to the cause.

THE COURT: She cannot tell of any transactions with the decedent.

MR. LEVIN: She is starting out to do that very thing.

THE COURT: She must not do that.

Q (By Mr.Schonfield): Mrs.Aaronson, did you ever send your brother any money --

THE COURT: That is the very thing Mr. Levin just called attention to, if that rule applies.

MR. LEVIN: There isn't any question about it applying to this case, your Honor.

MR. SCHONFIELD: That will be all, if your Honor please, just the evidence to show the administratrix.

(Testimony of the witness concluded.)

- - - - -

Thereupon - -

ISAAC CHENVIN,

a witness of lawful age, produced on behalf of the Estate of Henry Chenvin, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By the Court:

Q What is your address?

A 2105 Seventieth Street, Brooklyn, New York.

Q You are a brother of this lady who is the

administratrix?

A No, I am a nephew of this lady.

MR. LEVIN: He is a party to the cause, if your Honor pleases.

Q (By Mr. Schonfield): Are you a son of Mr. Harry Chenwin?

A I am.

Q Do you know where your father resided in Baltimore?

A 132 South Eden Street.

THE COURT: What year?

THE WITNESS: To my knowledge, the first time I had seen him there was about three years ago. I had not seen him previous to that in about four or five years.

Q (By Mr. Schonfield): Did you see him lately before he died?

A Yes, from about three years ago on until -- well -- the last time I saw him alive must have been about May, 1934.

Q Did you have any conversation with him?

A I did.

Q What was that conversation?

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132 S Eden

MR. EBY: We object to that.

THE COURT: Is he brought under the Evidential Rule?

MR. LEVIN: Yes, sir, he is a party to this cause.

THE COURT: Counsel must know before he puts witnesses on whether they are disqualified under the Evidential Rule.

MR. SCHENFIELD: If your Honor pleases, he is one of the heirs of the estate.

THE COURT: That is not the question. The question is, is he a party to the cause.

MR. SCHENFIELD: No, sir, he is not a party to the cause.

MR. LEVIN: He is a defendant in here and you filed an answer on his behalf.

THE COURT: I will take his testimony subject to exception. Of course, under this bill, all claimants are named as defendants. I do not know whether on a bill of interpleader of that kind the parties would all be disqualified by reason of being named defendants.

MR. LEVIN: Your Honor, that may prove unfortunate, but it is the law just the same, and I do not think

your Honor ought to allow it in subject to exception.

The law says it shan't be received.

THE COURT: I want to find out whether he comes within that rule definitely or not. I will hear his testimony and take it subject to exception. I will reserve both rulings as to the admissibility of his testimony, if he is eligible, and also on his eligibility. Exception.

Q (By Mr. Schonfield): Mr. Chenvin, will you tell his Honor whether or not you had a conversation with Harry Chenvin?

A Yes, sir, I had conversations with my father in the several times I had seen him in the last few years. In 1932, around May, the early part of May, probably the first week, I came here in order that I might --

THE COURT: Never mind all that. Tell us the conversation.

MR. LEVIN: Your Honor, I might say this is, in my opinion, not only a violation of the Statute, but it is purely hearsay and this record is going to be long enough, as it looks. I want to argue against this evidence coming in for both reasons.

THE COURT: All right, I will give you another

exception. Go ahead.

A (Continuing): He asked me to come and live with him in Baltimore, as I was not living with him for the last, oh, I should imagine sixteen or seventeen years, and I asked him how he could possibly have me step with him since I had to go to school and I intended to go to the University of Maryland. He said, he had no visible means of support --

THE COURT: Never mind all that, get at the conversation.

5/19/32
A (Continuing): He told me he had the means of supporting me through school and I asked him where did he have it and he could not tell me where he had it, but he said if I came with him, after I was twenty-one he would put me through Medical School.

THE COURT: He never told you where he had the money?

THE WITNESS: No, he would not tell me.

THE COURT: And you did not know?

THE WITNESS: I did not know.

THE COURT: Then that does not help us much.

MR. EBY: I move to strike that out, your Honor.

THE COURT: Overruled.

Q (By Mr. Schonfield): What is your age, Mr. Chenvin?

A I am twenty-one now, twenty-one on June 14th.

MR. SCHONFIELD: Witness with you.

THE COURT: Any cross?

MR. LEVIN: Will your Honor hold this until after our case is finished.

THE COURT: All right. Step down.

(Testimony of the witness concluded.)

MR. SCHONFIELD: If your Honor please, I have one or two more witnesses but I don't see them here and I think I will make that reservation.

THE COURT: What do you want them for?

MR. SCHONFIELD: For the purpose of showing that this man was a resident of 132 South Eden Street for the past several years --

THE COURT: Seven years is the testimony.

MR. SCHONFIELD: Yes, your Honor, but there has been a suggestion of counsel at the table that the house had been vacant last year.

THE COURT: All right. The testimony so far is that he has never occupied it longer than seven years ago, is that what you want to prove?

MR. SCHONFIELD: Yes, your Honor.

THE COURT: What other witnesses have you?

MR. SCHONFIELD: I have no other purpose except that.

THE COURT: Then, as I understand it, you have one or two witnesses, who, if here, would testify that this claimant lived in 132 South Eden Street during the past seven years but not earlier than that.

MR. SCHONFIELD: Yes, sir, your Honor, and that he died in that property.

THE COURT: And died in that property. What other witnesses have you?

MR. SCHONFIELD: That is our case, if your Honor please.

THE COURT: You have no other testimony on your claimant's case, I understand?

MR. SCHONFIELD: No, sir, that is right.

THE COURT: Then, on the principle of the Marathon, I think we had better disqualify some of these as we

go along. I rule out this claim of Chenvin altogether, because the physical facts speak louder than testimony that no man would put his gold in that bucket, corroded and disintegrated clear through the sides, in my judgment, and that it could have taken place in seven years in a dry cellar, and if he had gotten his money from the Mint in exchange for old gold in and after 1911 and not earlier than 1908, when he came to this country, he would never have had sent to him one dollar gold pieces of the vintage of 1854 and 1850 and 1846 and 1841 and 1838 and 1834.

The claim of Chenvin is ruled out or disallowed, whatever you choose to call it. Do you want to be heard on your motion?

MR. LEVIN: It will become very important as we go along with these claims. Now, I want to call your Honor's attention to this: The law does not say --

THE COURT: Well, let us wait until we get these other important questions. On this particular case, I would rather have the record stand in case he wants to appeal, that I have admitted all his testimony and there has been nothing excluded although I have some doubt as to the eligi-

bility of some of the witnesses.

MR. LEVIN: Yes, but I don't want your honor's action to be a precedent in this case.

THE COURT: There is no precedent in this Court or anything. Now, the next claim.

MR. EBY: If your Honor pleases, I represent Mrs. French and Mrs. Findlay. As we are the last one on the list, we prefer being the last to be heard. We have a record we would like to submit from the Superior Court. We would like to get this judicial record from the Superior Court.

Thereupon - - -

BENJAMIN KALLIS,

a witness of lawful age, produced on behalf of the French Estate, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Eby:

Q Mr. Kallis, what business are you in?

A Real estate.

Q What is the name of the company?

A American Realty Incorporated.

Q What is that located?

A 406 West Saratoga.

Q How long have you been in that business?

A I have been in the real estate business for eighteen years.

Q In that connection you take charge of properties and collect rents, do you not?

A Yes, sir.

Q Do you have charge of the collection of rents from property 132 South Eden Street?

A That is right.

Q How long have you had charge of that property?

A Since December 1st 1934 -- 1933.

Q For whom did you take charge of collecting rents there?

A For Mr. French.

Q Mr. H. Findlay French?

A That is right.

Q Do you know whom he was acting for?

A At the time I got the property from Mr. French, I believe he told me the property belongs to his mother.

Q That is Mrs. Elizabeth Findlay French and Mrs.

Mary Findlay?

A That is right.

Q You say you took charge of the property in December, 1933?

A The property was given to me on November 15th, 1933, to repair the property.

Q That was done by Mr. French?

A That is right.

Q What did you do at that time?

A On November 15th, I went down there to inspect the property and we found that everything was open, that is, the windows, doors; the property was in a terrible condition.

Q The property was in a dilapidated condition at that time?

A Yes, sir.

Q Were there any tenants occupying the property then?

A There was an old lady on the third floor front. All the rest of the apartments were empty.

Q The property was divided into some apartments at that time, was it?

A A report was made to Mr. French stating the condition of the property and he told me to go ahead and have the property repaired and to rent it. At that time we converted it into six apartments.

MR. LEVIN: At what time?

THE WITNESS: That was in November, 1933. It took us until December 1st to get the property in shape. Then I obtained tenants for each floor, that is, for five floors.

Q You obtained the tenants, did you?

A Yes, sir.

Q Did all apartments become occupied then?

A That is right, starting December 1st.

Q Starting when?

A December 1st, 1933.

Q Do you remember a tenant by the name of Harry Chenvin there?

A I do.

Q What apartment did he occupy?

A Third floor rear, one room.

Q Mrs. Bessie Jones has testified she occupied an apartment. Did you rent an apartment to her?

A Yes, the second floor rear.

Q What rent does she pay?

A Eight dollars a month.

Q You collect all of these rents, do you not?

A Some I do and some we have another man going there.

Q Some what?

A We have another agent that goes there.

Q I mean it is done under your supervision?

A Yes, that is right.

Q Then you report to Mr. Findley French, do you?

A Every first of the month.

Q Going back to the time you took charge you say the house was vacant at that time?

A Yes, a lot of window sash was gone and doors.

THE COURT: We have been all over that, why don't you ask him what you want to prove?

Q How many entrances to the cellar are there, to that house?

A One.

Q Where is that located?

A In the yard.

Q Any entrance from the inside of the house?

A No, sir.

Q How is the cellar laid out?

A The cellar in the front part is a regular cellar and the rear part is only a sub-cellar that you can't really stand up, a person can crawl under there.

Q There are a number of lockers there, aren't there?

A Oh, yes, each tenant has a locker for coal and wood.

Q Which locker does Mrs. Jones have?

A Mrs. Jones, the one in the front to the left.

Q How is the front part divided from the rear part of the cellar?

A It is a wooden partition with a door on it.

Q Does the partition go all the way up to the roof of the cellar?

A Yes, sir.

Q The door is the only entrance to that back part?

A Yes, sir.

Q Who put that door there when you took charge?

A I did.

Q Was there a door there before?

A The partition was there but no door.

Q Was the door there and off the hinges?

Was there a door standing there off the hinges at that time?

A Yes, the door was in the cellar but not on,
we replaced it.

Q And you put it on?

A Yes, sir, my man did.

Q Was there a lock to that door?

A There wasn't any lock at the time we got it.

Q You put a lock on it?

A Yes, sir.

Q What kind of a lock?

A Small ordinary lock.

Q Small padlock?

A Small padlock; yes, sir.

Q How many keys to that lock?

A Two.

Q Who held those keys?

A At first we had the key at the office, then we

had left one with the tenant of the first floor rear and she had one.

Q Who is she?

A One of our tenants.

Q Do you know her name?

A We called her Miss Josephine, I don't know exactly. She rented the property as Green.

Q Why did you leave a key with her?

A We had electric put in the house and the electric meters are in the rear of the cellar and she claimed the gas man comes there and he can't get in, so we left the key for that purpose.

Q You put electric wiring in the house?

A Yes, sir.

Q There was no electricity until you took charge?

A No.

Q And the electric meters are in the back part of the cellar?

A Just electric meters.

Q Where were the gas meters kept?

A In the front part of the cellar.

Q In other for the Gas Company agent to go back

and read the meters, you left one key with this tenant of the first floor?

A The tenant always had a key of the first floor.

Q What did you do with the other key?

A We have one at the office.

Q You went in the cellar from time to time, did you not?

A Yes, sir.

Q Did any of your men work there?

A Many a time.

Q In repairing the house, they went down there quite a number of times, did they not?

A I had the men there -- when we first got the men there to repair it, we had about ten men working there, but in the year off and on we had two for different repairs such as plumbing and carpentering.

Q It has been testified that these coins were found on August 31, 1934. How long before that do you recall that any of your men were down in the cellar of this house?

A On August 7th and August 27th.

Q On August 7th you had a man there?

A Yes, sir.

Q What did he go there for?

A The man went down to repair water pipes.

Q Was he in the back part of the cellar at that time?

A Yes, sir. At the time we sent the man down there we could not do anything because one of the rafters was bad and the kitchen floor caved in, and he reported to the office and we sent a man first to raise the rafters, so the plumber could go in there, then he went back there again somewhere between the 20th and 22nd to repair the water pipes.

Q And he went in the back part of the premises also?

A Yes, sir, all the pipes come from there.

Q You had full charge of the tenants, didn't you, in collecting the rents?

A Yes, sir.

Q Did you give any tenant there permission to go in the back part of the premises where this gold was found?

A Well, they never asked for any permission.

Q Did you ever grant permission to anyone to go back there?

A There was never anything mentioned to us and they never told us anything. If they had asked --

Q Do you know if anyone went back there?

THE COURT: What was your answer, if they had asked what?

THE WITNESS: I don't think I would have permitted them.

Q (By Mr. Eby): Was that in any way a part of the premises that were rented to any of the tenants?

A No, sir, they did not have a thing to do with the rear part of the cellar.

Q None of them ever asked to go back there, did they?

A No, sir.

Q The only reason for leaving the key with the tenant on the first floor was for the gas man.

THE COURT: He has told you all that.

Q Now, you say you put a padlock on that door?

A My men did.

Q Was that ordinarily kept locked?

A Yes, sir.

THE COURT: When you say "yes, sir", you mean it was supposed to be. You did not go there from time to time to look at it, did you?

THE WITNESS: I did, your Honor.

THE COURT: How often.

THE WITNESS: Well, probably like on Eden street--

THE COURT: Don't give me a lot of argument. How often did you go there to see if it was padlocked?

THE WITNESS: Not to see the padlock, but to inspect the property.

THE COURT: How often?

THE WITNESS: At least once a week.

THE COURT: And you always found it locked?

THE WITNESS: No, not all the time I went to the cellar, just to the property.

THE COURT: That is what I want to know, did you or not?

THE WITNESS: No, sir, I did not.

THE COURT: You found it generally unlocked.

THE WITNESS: I could not say. The time I seen it, it was locked.

THE COURT: Sometimes you found it locked, and

sometimes you found it unlocked, is that right?

THE WITNESS: I say I did not go down specially to the cellar, I went to the property.

THE COURT: I don't care what you went for. When you got there, did you or not find that the cellar door in the partition was locked or unlocked?

THE WITNESS: I didn't pay attention.

THE COURT: Then you don't know whether it was locked or unlocked?

THE WITNESS: I could not say.

THE COURT: Now, we have all of that in to find out nothing.

Q (By Mr. Eby): Did you know that anyone was using the back part of that cellar?

A Nobody.

Q You did not know that anyone was using it?

A That is right, I did not know it.

Q Was it used for anything other than the meters back there?

A In case a man went there to repair the pipes, that is all.

MR. EBY: Witness with you.

THE WITNESS: We have no questions.

MR. NILES: No questions.

CROSS-EXAMINATION.

By Mr. Schmidt.

Q Can you identify this chart of the location there as Eden Street running north and south, and Pratt street?

THE COURT: Pratt Street runs east and west, Eden Street north and south, do you understand that?

THE WITNESS: Yes, sir.

Q (By Mr. Schmidt): This is City Springs Square, isn't that correct?

A Yes, sir.

Q Do you know the dimensions of the lot of the property 132 South Eden Street?

A I will say it is about an eighteen foot front.

Q Well, it is twenty feet. Are you familiar with the ground plan of the house, of the improvements?

A No, sir.

Q Can you describe where the entrance is that you mentioned from the yard into the cellar?

A Yes, sir.

Q Does the house have what might be termed an areaway on the side?

A That is right.

Q And is the entrance into the cellar from a door that you have to reach by going through that areaway?

A You enter from the main hall to the yard on the south side of the building. The entrance to the cellar is from the areaway and the rear part of the building, of the main building. The building runs narrow in the back and full in the front.

Q Is the narrow portion toward the north or to the south?

A To the south.

Q The narrow portion is to the south?

A Yes, sir, that is the area way.

Q About how far back from the rear of the building would you say that areaway runs? I have just drawn a line there. Will you give us some idea of how far the area way runs from the back of the building?

A It runs three rooms long and no less than thirty-two to forty feet.

THE COURT: From the back?

THE WITNESS: From the side entrance to the yard, to the end of the building.

Q (By Mr. Schmidt): Assuming that this is the rear of the building, is there very much of a yard from the rear of the building to the back alley?

A Yes, sir. The yard is, I will say, about fifteen feet long.

Q Then the areaway starts at the edge of the building and runs along, you say, about how many feet?

A No less than forty.

Q Would you say that that distance was about half the length of the entire house?

A Not exactly half, no, because the front is only two rooms. The rear has three rooms and a small kitchen.

THE COURT: Is it more than half?

THE WITNESS: No, it is more to the rear than it is in front.

THE COURT: I say the offset goes more than half way of the house?

THE WITNESS: Yes, sir.

THE COURT: Two-thirds.

THE WITNESS: Yes, sir.

THE COURT: Three-fifths, I suppose, is what you want to say.

THE WITNESS: Three rooms and a small kitchen. The two rooms in the front are a little larger than the rear rooms.

Q (By Mr. Schmidt): Would you say this was about the approximate size of the building itself on the lot, showing the areaway coming --

THE COURT: That is his testimony.

A That is right.

Q The entrance, as you have stated, into the cellar is at this point, is it not? In other words, you go in this open space between this building and the building next door?

A Yes.

Q And when you reach the wall of the building at 132 South Eden Street, there is a door or opening or areaway into the cellar?

A That is right.

THE COURT: That is what I called a hatchway a double folding doorway into the cellar, isn't it?

THE WITNESS: Yes, sir.

Q (By Mr. Schmidt): I will ask you to look at Exhibit French No. 3 and state whether or not that is the double door hatchway which enters into the cellar?

A That is right, that is the one.

Q And this door, when open, exposes a stairway of several steps to the cellar floor, does it not?

A Yes, sir, three or four steps.

Q Three or four steps down?

A Yes, sir.

Q In looking at this picture, you will see that off to the left edge what appears to be the edge of a wall, is that correct, do you notice that?

A Yes, sir, that is right. I would call that the rear wall and this is the side (indicating).

Q Now, then, after you enter this portion of the building through the hatchway and you go down three or four steps, where are the lockers located to which you referred?

A Right fronting the steps.

Q Right in front of the steps?

A Yes, sir.

Q Are they built across the cellar or are they built along the wall?

A Some of the lockers are built in the front part of the cellar against the front wall.

Q And where are the others built?

A Just one built as soon as you go down the steps to the cellar, on the left-hand side.

Q Is that against the wall?

A Against that wooden partition that closes up the rear part of the building.

Q Where is that wooden partition located?

A The wooden partition starts right as you go down from the cellar stairs -- you go down four steps and that wooden partition starts right across the cellar.

Q Then the wooden partition goes across in that manner (indicating)?

A Yes, sir.

Q There is this other locker you mentioned?

A On the left-hand side near the steps.

Q Something like that (indicating)?

A That is right.

Q Where is that door which you mentioned?

A Right where you have the chalk.

Q Yes, do we understand you to say from this partition on back to the rear is the low portion of the cellar?

A That is right.

Q And from here out to the front wall, that is from the wooden partition to the front wall, is the full cellar?

THE COURT: Yes, the full depth cellar.

MR. SCHMIDT: That is all, your Honor.

REDIRECT EXAMINATION.

By Mr. Niles:

Q Mr. Kalis, isn't it a fact that this back area way is wider at the point from which you go into the yard so that it should be as I have drawn it here? You come out of the first floor into the area way at the point marked D, is that right?

A As you enter the hallway into the yard, oh, yes, it is much wider. He did not ask me that.

Q Now, the steps go down here and the lockers go across here, do they not, there are lockers on the west

side of the cellar; are there not?

A The lockers are built in the cellar against the front wall facing Eden street, and also one against the back partition that partitions off the cellar from the rear.

Q Now, then, the east wall of the lockers is exactly in line with that doorway, isn't it, that goes back into the lower cellar?

A Yes, sir.

Q Isn't the brick wall which is shown in Plaintiff's Exhibit 4, isn't the wall directly behind the man who is standing there, a wall running north and south at the western part of the wide portion of the area way?

A It is.

Q And if I put a point there and mark it with an X on the diagram, isn't that the point approximately where the gold was found?

A Yes, sir.

Q As shown from the inside of Plaintiff's Exhibit

4?

A Yes, sir, that is right.

(Testimony of the witness concluded).

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(Recess from 12:35 P. M. until 2 o'clock P.M.)

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AFTER RECESS (Two o'clock P.M.)

- - - - -

MR. EBY: Your Honor, we would like to offer in evidence the judicial record of the Superior Court known as S.C.L. No.14, folio 181, folio 174, in the case of Elizabeth H. French versus Francis M. Bond, administrator d.b.n. of the estate of Ida Schapiro, deceased, and others. This is an ejectment proceeding which shows that judgment for the Plaintiff was entered. Premises known as 132 South Eden Street, Baltimore City, on December 11th, 1933, judgment for the property and one cent damages, and on December 13th, 1933, writ of possession was executed.

THE COURT: Don't you want to go back further than that? I don't see how that can help us much except a year ago she was the owner.

MR. EBY: That is about eight months before the finding, your Honor, and I think it is admitted that she is the owner at the present time.

THE COURT: All right, that is in. Next witness.

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Thereupon - - - -

CHARLES FLEETWOOD,
a witness of lawful age, produced on behalf of the French
estate, having been first duly sworn according to law, was
examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Eby:

Q Where do you live, Mr. Fleetwood?

A 1121 McKean Avenue.

Q By whom are you employed?

A American Realty Company.

Q That is the company Mr. Kalis is connected with?

A Yes.

Q How long have you been employed by that company?

A Three years or a little better.

Q What kind of work do you do?

A Carpenter.

Q You have been a carpenter for many years, haven't you?

A Yes, sir.

Q Did you ever do any carpenter work at 132 South Eden Street, in Baltimore City?

A Yes, sir; four or five different times.

Q For whom?

A American Realty Company.

THE COURT: What did he do?

Q What did you do down there?

A The last time I was down there I propped up the cellar joists.

Q You went down there the first time about the time Mr. Ellis took charge of that property, didn't you?

A That is when we overhauled the building.

Q When was the last time you were there?

A The last time was about the last part of August.

Q In 1934?

A Something like that.

Q This last August?

A Yes.

Q What did you go there for at that time?

A To prop up the cellar joists.

Q What part of the cellar?

A Back part of the cellar.

Q In the rear of that partition?

A The rear of the partition, yes, as far as you can get back.

Q There was a door on that partition, was there not?

A Yes, sir.

Q Who put that door there?

A I put it on myself when we overhauled the building.

Q Was there a lock on that door?

A Yes, sir.

Q That was kept locked, was it?

A Each and every time I went there it was locked.

Q When you went there in the latter part of August, about how long before the finding of this gold was that?

A Just a little before that, about a week I would say, maybe ten days.

Q How did you get in that back part?

A I got a key from the office.

Q You took the key with you?

A Yes, sir.

Q From Mr. Kallis' office?

A Yes, sir.

Q And you made repairs to the floor?

A Yes, sir.

Q You put some props under there, is that it?

A Yes, sir.

Q What did you do after that?

A Locked the door and took the key back to the office.

Q You say you were there several times?

A Once or twice.

Q When you went there, was this door locked?

A Yes, sir, every time I went there it was locked.

MR. EBY: That is all.

THE COURT: Any cross-examination of any kind by anybody in interest.

CROSS-EXAMINATION.

By Mr. Straus:

Q How often were you there?

THE COURT: A couple times before he says.

Q How many times were you there?

A I was there when we overhauled the building around two weeks.

Q I did not hear you. How many times were you there?

A About three or four times.

Q When were those three or four times?

A Off and on from that time up until August we were backwards and forwards, hanging a door today or putting a hinge on a door.

Q When was the first of these three times?

A I don't know exactly myself.

Q Was the first time in 1933 or 1934?

A About a year ago the first time.

Q And then after that, you were there when?

A Off and on maybe about every two or three weeks I would go there to put a hinge on a door or fix a stove.

Q No, but down in the cellar?

A I was down there just about two weeks before the gold was found, because I read in the paper when the gold was found.

Q Was that the second time you were in the cellar?

A That was the second time.

Q Then you were really in the cellar about twice before the gold was found?

A About twice, that is what I said.

Q And that is in a period of over a year?

A No, I was in the cellar propping the joists up about a week or two weeks before the gold was found.

Q I know, but you were there on two occasions in a period running from some time in 1933 to August, 1934, is that correct, sir?

A Yes, sir.

(Testimony of the witness concluded.)

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Thereupon - - - -

ROBERT KING,

a witness of lawful age, produced on behalf of the French Estate, having been first duly sworn according to law, was

examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Eby:

Q Your name is what?

A Robert King.

Q Where do you live?

A 4715 Reisterstown Road.

Q What do you do?

A Plumbing.

Q For whom do you work?

A American Realty Company.

Q How long have you been working for that company?

THE COURT: Never mind that. What did he do there?

THE WITNESS: Fixed some water pipe in that cellar.

Q (By Mr. Eby): When did you fix that water pipe there?

A Oh, latter part of August, sometime in August. I don't remember exactly the date.

Q You mean this last August?

A Yes, sir.

Q How many times were you down there?

A Oh, I guess on and off -- we go to that property often --

THE COURT: Stop all that and answer the question. How many times were you there?

A On and off, about seven or eight times.

Q (By Mr. Eby): That was within the six months would you say prior to the finding of the gold?

A Oh, within five or six months; yes, sir.

Q Now, you observed that partition in the back part of the cellar?

A Sure.

Q And there was a door on that?

A Yes, sir.

Q And that door was kept locked?

A That door was kept locked at all times.

Q How many times did you go through that partition?

A Well, every time I had to go through that partition door I had to get the key from the office.

Q You took the key down with you, did you?

A That is right.

Q And you unlocked it?

A That is right.

Q Did you lock it when you came out?

A Yes, sir.

Q And each time that you were there you found that door locked?

A That is right.

(Testimony of the witness concluded.)

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MR. HBY: Your Honor, that is our case on the facts.

THE COURT: All right, next claimant.

MR. STRAUS: The Saulsbury estate will present its case now, if your please.

THE COURT: Mr. Straus, while we are waiting for the papers you have sent for, do you want to make a statement of your case, so that I may understand the theory you are working on?

(Opening statement made on behalf of the Saulsbury Estate by Mr. Straus.)

(Opening statement made on behalf of Anna C. Klunk by Mr. Shea.)

MR. SCHMIDT: May it please the Court, the first evidence that is to be offered on behalf of the Saulsbury estate will be the record title taken from the Land Records of Baltimore City. In order to give some idea as to when the house was built, we are offering in evidence the lease by which the leasehold interest was created and that is a lease from Washington Hall to James C. Penhagen. It is dated March 17th, 1851, and is recorded among the Land Records, being then Baltimore County, of course, in Liber A.W. B. No. 453, folio 135.

(Papers referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 1.)

MR. SCHMIDT: Now, that lease reads as follows:

"This indenture, made this seventeenth day of March, in the year of our Lord, 1851, between Washington Hall, of the City and County of Baltimore, in the State of Maryland of the first part, and James C. Penhagen, of the same place, of the second part.

"Witnesseth, that the said Washington Hall, in

consideration of the payment of the rent and performance of the covenants hereafter mentioned on the part of the said party of the second part, his heirs, executors, administrators, and assigns, to be paid and performed as demised, granted, leased, and by these presents, it is demised, granted and leased unto the said James C. Fenhagen, his executors, administrators, and assigns, all that lot of ground in the City of Baltimore aforesaid, beginning on the west side of Eden Street at the distance of forty feet normally from the corner formed by the intersection of the North Side of Pratt street and the west side of Eden street, and running thence northerly bounding on Eden Street twenty feet, thence westerly parallel with Pratt street, ninety-five feet to an alley, ten feet wide, thence southerly bounding on the east of said ten foot alley, with the use and privilege thereof in common, and parallel with Eden Street twenty feet, and thence easterly by a straight line ninety-five feet to the beginning; to wit, said lot of ground. The said Hall became entitled in fee simple by virtue of an indenture from John H. Barnes and wife dated September 18th, A. D. 1850, and recorded among the Land Records of Baltimore County, together with all improvements thereon made, lands, alleys, ways, waters, privileges,

easements, emoluments, and advantages to the said lot belonging or in any wise appertaining thereto.

"To have and to hold unto the said Fenhagen, his executors, administrators and assigns, from the date next before the date of these presents, for and during and until the end of ninety-nine years thence next ensuing, fully to be complete and ending, yielding and paying therefor to said Hall, his heirs, or assigns, the yearly rent of Sixty Dollars lawful money, amounting from the 13th day of September A. D. 1880, and payable thereafter in half yearly installments of thirty dollars each. "

THE COURT: Is there any particular point in all that detail, except that there was a lease made from that date.

MR. SMITH: I just wanted to finish the ground rent, your Honor.

THE COURT: I mean the details mean nothing to me as a matter of evidence, except the date of such a lease. The whole thing is in for the purpose of the record. There is no use reading the details.

MR. SMITH: Yes, sir. After the lease, Fenhagen

assigned the leasehold to Mattison. I offer the assignment from James C. Penbagen to J. Mattison, dated April 23rd, 1852, recorded among the Land Records of Baltimore City in Liber E. D. No. 10, folio 117. It conveyed the same lot on the west side of Eden Street, forty feet north of Pratt, twenty feet front, ninety-five feet deep, still the leasehold interest.

(Paper referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 2.)

MR. COUNSELLOR: The next conveyance is the one that brings title in to Mr. Saulsbury, dated June 22nd, 1863. That is an assignment.

The assignment is from John J. Mattison to Andrew J. Saulsbury. It indicates that two dollars in United States stamps were attached to the deed. The deed is dated June 22nd, 1863, and is recorded among the Land Records of Baltimore City in Liber A. M. No. 272, folio 139, and conveys the property the west side of Eden Street forty feet north of Pratt, twenty feet front, ninety-five feet deep, subject to a sixty dollar ground rent.

(Paper referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 3.)

MR. SCHMIDT: I do not know of any other way to prove it except to have Mr. Stein take the witness stand, that there was no mortgage put on the property at the time of purchase and no mortgages --

THE COURT: I do not know that it makes any difference. There are unrepresented claimants here that I have no right to speak for. If you want to prove it and you think there is any point in it, put on Mr. Stein.

MR. STRAUS: We will offer the chain of title first, then we will offer that proof, if the Court please.

THE COURT: All right. A two dollar stamp tax on that deed means what in valuation?

MR. SCHMIDT: I have not calculated it. It is usually about one dollar a thousand. The next is assignment by Thomas Armstrong, administrator, to James A. Saulsbury.

THE COURT: Do I understand you, Mr. Schmidt, and Mr. Stein, Jr., are representing the same interests?

MR. SCHMIDT: Yes, sir.

MR. STEIN: If your Honor please, that last deed by which Mr. Saulsbury bought the property, recites a consideration of \$3,250.

MR. SCHMIDT: The next is the assignment just referred to from Thomas Armstrong, who is designated as surviving administrator of Andrew J. Saulsbury, late of Baltimore City, deceased. The assignment is made to James A. Saulsbury. It is dated August 1st, 1889, and it is recorded among the Land Records of Baltimore City in J. B. No. 1263, folio 303.

(Papers referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 4.)

MR. SCHMIDT: I would like to read to the Court the preamble of the deed: "This deed, made this First day of August, in the year of our Lord, in 1889, by Thomas Armstrong, of Baltimore County, and State of Maryland, surviving administrator of Andrew J. Saulsbury, late of Baltimore City, deceased:

"Witnesseth, said Thomas Armstrong, surviving administrator of Andrew J. Saulsbury, late of Baltimore City, deceased, was, by an order of the Orphans' Court of Baltimore City passed on or about the tenth day of May last past, em-

powered and directed to sell at public auction leasehold property in said order mentioned, and having given due notice of the time, place and sale thereof, did, on the 29th day of May last past, by the services of Messrs. Matthews and Corkran, proceed to sell said property; and

"Witnesseth, at the time of said sale James A. Saulsbury, became the purchaser of the lots of ground and premises firstly, secondly, thirdly, fourthly, fifthly, sixthly and seventhly, at the said sale at the several prices at which same were reported to the Orphans' Court of Baltimore City, he having been the highest bidder for the same, the said several purchases amounting in the aggregate to the sum of \$7,135; and,

"Witnesseth said sales have been duly recorded in the Orphans' Court and have been finally ratified and confirmed, said James A. Saulsbury having paid the purchase money, is thereby entitled to a conveyance of said property."

It conveys several pieces of property, seven in all, to James A. Saulsbury, including the lot on the west side of Eden Street, that being the first lot in that assignment. Without actually reading from the books, which are

right here, the rest of the title shows that on February 20th, 1890 James A. Saulsbury, executed a mortgage to his brother, Andrew J. Saulsbury, a son of Andrew J. Saulsbury then deceased, which mortgage was released October 15th, 1890, and that on the same date, October 15th, 1890 by assignment of that date and recorded among the Land Records of Baltimore City in Liber J. B. 1314, folio 251, James A. Saulsbury assigned the leasehold interest in the property on the west side of Eden Street to Henry A. and Barbara Fisher. At that point, the title passed from the Saulsburys. May it please the Court, I would like to put in evidence an examination of the title.

Thereupon - - - -

J. PAUL SCHMIDT,

a witness of lawful age, produced on behalf of the Saulsbury Estate, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Straus:

Q You might state whether or not, Mr. Schmidt, you examined title to this property?

A I have examined the title to the property 132 South Eden Street down to December, 1921, which, of course, covers the period in which the Saulsbury family owned the property and it appears from the Land Records at the time Mr. Andrew J. Saulsbury, I should say, senior, acquired title to the property, that is, by assignment from John J. Mattison, dated June 22nd, 1865, there was no mortgage recorded at that time nor was there any mortgage recorded during the lifetime of Mr. Andrew J. Saulsbury, Senior.

Q That is, upon that property?

A Upon that property. At the time of his death the property was free and clear of mortgage encumbrances and it was conveyed subsequently by his administrator to his son James A. Saulsbury.

MR. STRAUS: I think that is all.

CROSS-EXAMINATION.

By Mr. Harry Levin:

Q Did you search the judgment records?

A I did not.

Q Then you don't know whether there were any judgments against him or not?

A As of that time?

Q Yes.

A No, I do not. I might say I have examined his estate, which we are about to put in evidence, and it shows it was entirely solvent, all claims or debts filed against the estate having been paid.

MR. STRAIN: If there were any judgments against him, they would have to be proved.

MR. LEVIN: Oh, no, not necessarily.

THE WITNESS: Well, he could not have conveyed title --

THE COURT: If it is important, you can get it done for fifty cents tomorrow.

MR. LEVIN: It costs a dollar now.

THE COURT: Everything is inflated now. Any questions of Mr. Schmidt?

(Testimony of the witness concluded.)

MR. SCHMIDT: We will next produce the administration of the estate of Andrew J. Saulsbury, in the Orphans' Court of Baltimore City. We first offer in evidence the docket

that is known as a registry of the administrations granted in Baltimore City upon the estates of deceased persons. This book, No. 20 -- rather, administrations No. 50, 1872 to 1873, folio 216, on that page it is found that letters were granted on December 5th, 1873 on the estate of Andrew J. Saulsbury -- rather it has the "J" in front of the "Andrew". It has Saulsbury first, then it has what is apparently intended to be a "J" and then the word "Andrew". It states that the deceased died intestate and that letters were granted to Margaret J. Saulsbury and Thomas Armstrong. That they filed an administrator's bond of \$150,000 and the sureties on the bond were Charles Webb, James Webb, John W. D. Pentz. In the column indicating the amount of the inventory, it states first, \$90,282.96, and beneath that is the sum \$2,000 with the notation "amended inventory". Then follows a list of amounts of sales. They are as follows: \$11,050; \$2,000; \$3,035; \$3,000; \$17,361.87.

THE COURT: Sales of what?

MR. SCHEMIDT: It was on personal property. This is just a brief sketch of it.

THE COURT: What is the advantage of having

the detail of the proceeds of unknown sales? The sum total was \$90,000.

MR. SCHMIDT: Yes, but these were included in the \$90,000.

THE COURT: What is the probative value of it?

MR. SCHMIDT: It is just to show that Mr. Saulsbury was a man of means.

THE COURT: He had \$92,000, you have shown that. Now, what is the difference what it was or where he got it?

MR. SCHMIDT: It is just to show the extent of his estate.

THE COURT: The extent is already proven as \$92,000 larger.

MR. SCHMIDT: Your Honor understands the inventory is merely an apparent appraised value.

THE COURT: Isn't there a sum total as to what he had?

MR. SCHMIDT: That will come out in the account.

THE COURT: All I mean is we are losing time in getting the details. If you have \$100,000 in the estate, what is the difference? If you think there is any importance

in it, I do not want to shut it off. It is the sum total of his estate that proves he was a man of affluence and substance, a politician who died rich.

MR. STRAUS: He was a very substantial business man too, if the Court please.

THE COURT: Well, amongst his other acquisitions, he was a successful politician.

MR. SCHMIDT: There are some other figures, amounts of receipts and disbursements, which, of course, we can prove later on. It shows that there were fourteen accounts filed in his estate before it was finally closed, or closed to the extent an estate is considered closed in the Orphans' Court.

THE COURT: Did it exceed the inventory or was it under it?

MR. SCHMIDT: We cannot tell that by this, your Honor. I understand that it did. Mr. Stein has made the examination of the administration.

(Paper referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 5.)

MR. SCHMIDT: Next, we wish to offer in evidence

the administration of the estate of Andrew J. Saulsbury, filed in the Orphans' Court of Baltimore City on the 11th day of April, 1874. The inventory first sets out a long list of household furniture, pictures, portraits --

THE COURT: Does it give the items of what it consists of?

MR. SCHMIDT: Yes, sir.

THE COURT: Well, how many copper kettles?

MR. SCHMIDT: I don't know, I will run down the list.

THE COURT: I do not want it all, just scan it down and see how many copper kettles.

MR. SCHMIDT: One cook stove.

THE COURT: Well, that does not figure in the case.

MR. STRAUS: I hardly think that would appear in an inventory.

THE COURT: I hardly think so, unless he was long on copper. It would probably be included in kitchen utensils.

MR. SCHMIDT: Then follows a number of pieces of property.

THE COURT: Including 132 South Eden Street, I

suppose, the leasehold.

MR. SCHMIDT: Yes, sir.

THE COURT: Is that actually specifically listed?

MR. SCHMIDT: Yes, your Honor.

THE COURT: Well, put it all in. If you think any of the details are important, call it to my attention. Treat it as all in.

(Paper referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 6).

MR. SCHMIDT: May we read the description and value of the Eden Street house?

THE COURT: What is the inventory on that at the time of his death?

MR. SCHMIDT: There were thirty lots that he owned at the time of his death.

THE COURT: After all, that was just an Orphans' Court appraiser. I do not know how much significance to attach to that. If you have the actual sale value of it as returned by the administrator of the sale, it might have more probative force than an appraisement by an appraiser.

MR. STRAWS: I think the purchase price would be indicative of value.

THE COURT: It was bought at \$3,250.

MR. SCHMIDT: The inventory filed in 1874 appraises this property at about \$2500. I might say, your Honor, that the house was known at that time and is set forth in the inventory as No. 57 Eden Street.

THE COURT: Then that would make the Captain of the Spitfire as number what?

- P239 "Captain Wilson" / P216

MR. SCHMIDT: As Number 55. The inventory shows that all property, that is, personal property other than cash amounted to a total of \$89,769.40. It shows cash in house at the time of decease \$336.50. Cash in bank at the time of decease \$177.06.

THE COURT: It does not say anything about cash in the cellar?

MR. SCHMIDT: No, sir. And the inventory is filed by Margaret C. Saulsbury and Thomas Armstrong, administrators. Then follows in the same volume 99, inventories, folio 377 the list of debts. In other words, debts due to Mr. Saulsbury, or, rather, to the deceased, and that shows a

total of \$15,763.34.

MR. STRAUS: What was the general nature of those debts, Mr. Schmidt?

MR. SCHMIDT: They were notes, promissory notes, mortgages and just open accounts. There was an additional inventory filed later in Inventories 119, folio 127, on the 22nd of November, 1881. It includes a lot of ground on the south side of Baltimore street, forty feet west of Caroline, appraised at \$2,000. Evidently one piece of property that the administrators omitted in the first inventory. The next will be the first administration account.

THE COURT: Mr. Schmidt, suppose you put them all in. I cannot see the probative value of all of these details. The man had considerable wealth and so forth, the exact detail of which I cannot see the value of.

MR. STRAUS: Just for the advisement of the Court, we would like to give you a summary of these accounts.

THE COURT: There is no objection to putting them in the record.

MR. SCHMIDT: This is the first administration account of Andrew J. Samsbury, filed April 30th, 1876. After charging themselves with the amount of the inventory hereto-

fore filed -- of course, the \$2,000 additional inventory had not been filed yet -- of \$90,282.96, and with the accumulation of collections of debts and various other items, it shows a total of \$12,378.41 to be applied to the payment of debts and balance distributed.

THE COURT: Four years later that was augmented by another \$2,000 of real estate on East Baltimore Street.

MR. SCHMIDT: Yes, sir.

THE COURT: All right, that is \$123,000. Now, let us pass on to something else. You can put it all in the record but I cannot see the probative force of the details. Mr. Schmidt, if for some reason best known to yourself, you do not want to put on a witness this afternoon, you need not take up the time in going over these details.

MR. STRAUSS: No, sir, there are some things we want to put in, such as newspaper accounts.

THE COURT: Well, let us get started, unless you are using a little strategy. If that is the case, say so, and we will adjourn until tomorrow morning.

MR. STRAUSS: These are all accounts of the newspapers of Baltimore if your Honor please, of the death of Mr. Saulsbury and we have some copies.

THE COURT: I do not know, if there is any objection, how they can become evidence. Obituaries are obituaries.

MR. STRAUS: Well, it shows generally how he was regarded by the press and public.

THE COURT: Sometimes it is very different after death from what it is in life. I doubt very much that is admissible over objection.

MR. HARRY LEVIN: We object.

THE COURT: I will sustain the objection to the newspaper accounts of what manner of man he was by virtue of the press obituaries.

MR. STRAUS: Will you permit them to come in as to the suddenness of his death?

THE COURT: I do not think they prove that.

MR. STRAUS: They are contemporary historical records.

THE COURT: I do not know whether they are records at all.

MR. STRAUS: Old newspaper accounts included in old annals or records I think are regarded as different from

hearsay.

THE COURT: I will admit what the newspapers say, for what it is worth, but I do not think it establishes the fact that he died suddenly. Sometimes they very often say it was from over work, terrible strain, ceaseless duty to public office, when everybody knows he committed suicide. I am not talking about this case, do not misunderstand me, I am talking about press accounts. We are all very generous about those things. I will admit the fact, if you say it is a fact, that the Baltimore Sun of June 22nd, 1873 said this City Councilman died from pneumonia on the 4th day succeeding, having been taken with it on the previous Sunday. Just read it generally, that might settle the whole thing.

MR. LEVON: Does your Honor rule it is evidence?

THE COURT: I have already heard it in opening statements.

MR. STRAIN: Here is an account in the Sun, the notice of his death. This is not a newspaper panegyric at all:

THE SUN, BALTIMORE, SATURDAY NOVEMBER 29, 1873.

SALISBURY, Suddenly on the 28th of November, after a painful illness, Andrew J. Salisbury, in the

forty-seventh year of his life. His relatives and friends of the family are respectfully invited to attend his funeral on tomorrow, Sunday afternoon at half past two o'clock, from his late residence No. 37 South Eden street."

MR. LEVIN: We have no objection to that, your Honor.

MR. STRAUS: I wish to offer in evidence, may it please the Court, the accounts in the newspapers relating to Mr. Saulsbury, showing his general standing and position in the community, and that he was a man likely to have funds of this amount at his disposal. He was not a man whose living was cramped or strained --

THE COURT: You have shown that by the inventories of the estate. He had \$123,000 real money.

MR. STRAUS: I am not going to press it, I only make this suggestion to the Court. That kind of thing consists of more than actual money possession. It is a matter of character, of position, of friendships, of association, and all of those things that go to make a man's individuality.

THE COURT: All right, General, just read it into the record.

MR. STRAUS: (Reading).

"THE SUN, BALTIMORE, SUNDAY, NOVEMBER 30, 1873.

"DEATH OF A WELL KNOWN CITIZEN.

"Mr. Andrew J. Saulsbury, a well known citizen of Baltimore, died at one o. m. yesterday, at his residence on South Eden Street, of heart disease. He was a member of the Second Branch of the City Council for the Third and Fourth Wards several years ago. He was considered to possess excellent qualities and was very active in organizing and conducting building associations, being at the time of his death President of the Maryland Permanent Land and Building Associations besides one or two other building associations. He leaves a wife and several children in good circumstances. The deceased was quite popular in a circle of acquaintances and friends."

Now, the Baltimore American Says:

"FUNERAL OF A. J. SAULSBURY."

"The funeral of A. J. Saulsbury, who formerly represented the third and fourth wards in the Second Branch of the City Council, took place yesterday afternoon from his late residence, No. 37 South Eden Street. The Reverend George

W. Powell delivered some remarks from the text, 'In my Father's house are many mansions.' The following gentlemen acted as pallbearers: John Roth, James Webb, Thomas McCormick, Thomas Armstrong, James Armstrong, John R. Huggins, Edward Wilson and Mr. Hughes. The coffin was covered with wreaths and crosses of beautiful flowers. The funeral cortege was very lengthy and was composed of the relatives and friends of the deceased. Many prominent citizens participated. The interment took place in Greenmount Cemetery."

THE COURT: Well, I see no objection to letting them come in. Let it come in, with exceptions to everybody.

(Papers referred to were thereupon marked and filed in evidence as Exhibit Saulsbury No. 7 and Exhibit Saulsbury No. 8.)

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(Thereupon, at 3:45 P. M., an adjournment was taken until ten o'clock tomorrow morning.)

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Wednesday, December 12, 1934

The above entitled cause was resumed on
Wednesday, December 12, 1934, at 10 o'clock a. m.

Present: Counsel for the respective parties.

The COURT: Gentlemen, for your information,
there is a claim filed in the mail this morning from
Brooklyn. I suppose it came in response to the Attorney
General's Notice of Publication.

Thereupon --

ELIZABETH SAULSBURY AUDOUN,
a witness of lawful age, produced on behalf of the
Saulsbury Estate, having been first duly sworn according
to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Straus:

Q. Mrs. Audoun, tell the Court, if you please, your
full name?

A. Elizabeth Saulsbury Audoun.

Q. Who was your father?

A. Andrew J. Saulsbury.

Q. Where were you born?

A. I was born January 21st, 1859.

Q. When was your father living at or about the time of your birth?

A. Why, we were living on Central avenue near Gough, down there near Gough.

Q. How long did you continue with your father to live on Central avenue near Gough?

A. Until, I judge, I was about nearly seven years old.

Q. That would have been what year? You were born in January, 1859?

A. Yes, sir.

Q. It would have been some time in 1863?

A. Yes, a short time before we moved to -- well --

Q. Where did you move from Central avenue?

A. Eden street.

Q. To what number Eden street?

A. It was in those days 57 Eden street.

Q. North or South Eden street?

A. South Eden street.

Q. Between what streets was that?

A. That was between Lombard and Pratt, very near to Pratt street.

Q. Now, I want to ask you the question, at the time you and your father moved from the Central avenue home to the Eden street home, was your own mother living?

A. Oh, no, my father had been married, I judge, about a year the second time.

Q. What children did your father have by his first wife?

A. Well, my oldest brother, James Armstrong Saulsbury, and Julia Anna Saulsbury and myself.

Q. Were you the second or third child?

A. I was the third child.

Q. Now, is James living?

A. No, James is dead.

Q. Is Julia living?

A. No.

Q. What family, if any, did James leave at the time of this death?

A. He left two boys, two sons. One son has died since his death and he now has a son in New York.

Q. What is his name?

A. Thomas Armstrong Saulsbury.

Q. Did he leave a widow, did James leave a widow?

A. Yes, Mrs. Clara Saulsbury.

Q. Is she still living?

A. She is still living.

Q. Now, then, by his second wife, what children did Mr. Saulsbury have?

A. She had five. She had Andrew J., Jr., and Martha --

Q. What is Martha's name now?

A. Mrs. Short.

Q. She is Mrs. William Short?

A. Mrs. William Short. Then Mrs. Spencer Sisco.

Q. What was her first name?

A. Margaret.

Q. Is she living?

A. No. She has a son living in New Jersey, Spencer, Jr.

Q. Now, the next child?

A. The next was Mrs. Foster, Mrs. Reuben Foster.

Her name was Celeste.

Q. And she is not living?

A. No, but she has a son living.

Q. That is Reuben Foster?

A. That is Reuben Foster.

Q. He is the administrator of your father's estate?

A. He is the administrator of my father's estate.

Q. Was there another child besides Andrew, Martha,

Celeste and Margaret?

A. Yes, Wilson.

Q. Is he living?

A. No, he died some years ago.

Q. Did he leave any children?

A. No, he was not married; he was a single man.

Q. Is Julia, your own full sister, living?

A. No; she has a daughter living in Florence, Italy.

Q. Now, that gives the Court some idea of the family and the different surviving heirs or next of kin of your father?

A. Yes.

Q. You say you moved into the Eden street house in 1865?

Mr. LEVIN: She did not say that, General. She said when she was nearly seven years old.

Mr. STRAUS: I asked her distinctly the date. If there is any question about it I will ask her again, but I think she did say distinctly that they moved there.

Q. What year did you move from the Central avenue house into the Eden street house?

A. I don't remember that, Mr. Straus: I would not like to say definitely.

Q. You say you were then twelve years old?

A. I judge I was, judging from the time my father married, I was, I think, about -- I was two and one-half when my mother died and he was a widower about two years and one-half. That brought me to five. Then I was over six when we moved, I think.

Q. Moved into the Eden street house?

A. Moved into the Eden street house.

Q. That would make it 1865?

A. I was between six and seven.

Q. Have you a distinct recollection of the entry of the family into the Eden street house, of the moving into the Eden street house?

A. Oh, yes, I remember going there, and I remember when we moved in, remember the improvements my father had put on the house.

Q. What business was your father in at that time?

A. Well, he was with Mr. Armstrong & Company, soap and candles.

Q. Where was their place of business?

A. On Concord street near Pratt.

Q. They were manufacturing soaps and candles?

A. They were manufacturing soaps and candles.

Q. Did he continue in that business with Mr. Armstrong up to the time of his death?

A. No, he retired about two years before his death from that business and he opened an office on Fayette street near North, a real estate office.

Q. Do you know whether or not he was connected with any building associations, what can you tell the Court

about that, his connection with and interest in building associations?

A. Oh, he was very active in building associations. I remember he was called upon to go into the different counties of Maryland to start these building associations, he was so well known in that connection.

Q. Do you remember the name of any of the building associations, one in particular, of which he was president?

A. No, I can not remember the names, but I know where one was situated. One was right at the corner of Pratt and Eden.

Q. Was he president of that association?

A. He was president of that association.

Q. And he was in the real estate business?

A. Yes, sir.

Q. Do you know of any public position which your father held?

A. Yes, he was Councilman.

Q. Which branch of the City Council?

A. Second Branch.

Q. And about when was that?

A. That was about 1865.

Q. Who was Mayor of Baltimore at the time --

A. About 1866 and 1867.

Q. Do you remember who was Mayor of Baltimore at that time?

A. Yes, Mayor Banks.

Q. What can you tell the Court as to your father's means and financial state; I do not mean with any great accuracy, but generally?

A. Well, he was a man who provided well for his family. We had plenty of help in the home, servants.

Q. How many servants did you usually keep?

A. We always kept two servants and a laundress; two maids in the home and the laundress came in.

Q. How was your house furnished?

The COURT: Is that material, General? You have already shown he had \$123,000 when he died.

A. We were very comfortable.

Q. The family was never in any need from time to time?

A. Never.

Q. And the wants of the family were abundantly supplied?

A. Yes.

The COURT: I think that is all immaterial.

Mr. STRAUS: Well, then, we won't press that beyond the picture. I want to give the Court a picture of the case.

Q. Now, I want next to ask you what, if anything, you recall with reference to any coins of any sort in your father's home, the Eden street home?

A. I generally saw coins on the desk in the dining room. We had a secretary in the dining room, the top of the bookcase and the lower part of the desk, and he kept these gold coins in that desk.

Q. Describe that in your own way, where they were in the desk; give the Court some account of the different coins and of the quantity and of the place where you recall seeing them.

A. Well, when he opened the desk I always would go and stand beside him because the gold had a great fascination for a child, and I wanted to see it, and I would go

there and stand beside him, and then again he would give us some --

Mr. LEVIN: Wait a minute.

The COURT: None of that is responsive.

Mr. STRAUS: I am asking her what she saw.

She is explaining how she came to see it.

Mr. LEVIN: I move that part be stricken out.

The COURT: Oh, well, it is technical. Answer the question.

A. I saw the gold there --

Q. You say you saw it frequently because you said whenever your father went to the desk, oftentimes you would go?

A. I saw it time and time again, there was always gold in the desk, and the last time I saw the gold in the desk was the night he died. It was there then.

Mr. LEVIN: The last time she saw it was the night he died.

Mr. STRAUS: She saw it then.

The WITNESS: Yes, I saw it then.

Q. First, where was it in the desk that you saw this

gold?

A. In a little drawer, the gold was in a little drawer in a little pigeon hole drawer.

Q. Was it in one or more than one drawer?

A. Well, I don't remember but the one drawer.

Q. Were these gold pieces?

A. They were gold pieces.

Q. Of money?

A. \$1, \$2.50 and some \$5 pieces, and I think there were some tens, but very few. I don't remember very large pieces.

Q. You mean larger than ten?

A. Yes, I don't remember those. There may have been some twenty dollar pieces, but I think I saw just a few of those.

Q. Then you saw a few twenty dollar gold pieces, you saw some ten dollar gold pieces?

A. Yes.

Q. Five dollar pieces?

A. Different sizes --

MR. LEVIN: General, I don't want to object --

The COURT: You ought not lead, General, you are multiplying the record tremendously.

Q. How much of these gold coins did you see the more of?

A. Oh, I saw more of the small ones.

Q. Now, then, you have said at times your father gave you gold?

A. Yes.

Q. Tell us about that.

A. He gave us gold on holidays. He was a public man, and he entertained at Christmas and he did not bother about buying us presents, he gave us presents of gold, and he left the presents for the women folks to select for us; but he gave us the gold.

Q. Mrs. Audoun, when you say he gave "us gold as presents", whom do you refer to?

A. I mean the children, all of us.

Q. As a rule, what denomination of gold pieces did he give you and the children on these occasions?

A. Well, he gave me principally dollars --

Mr. LEVIN: Wait a minute. If your Honor please,

I think we are going into a transaction between the witness and the deceased and I want to object to it. If your Honor wants to hear me on it I will be glad to discuss it.

The COURT: Well, we ought to have that determined. I do not know whether in this kind of a case she is disqualified or not.

Mr. STRAUS: I submit she is not, and I submit this is not in the form of a transaction but it is evidence of money.

The COURT: If she is disqualified, she has already crossed the line when she undertakes to say on holidays he gave her some gold. If she is disqualified under the Evidential Act, that is a transaction with the deceased. Whether she is disqualified in this kind of a case or not, I do not know.

Mr. LEVIN: Will your Honor hear me on that?

The COURT: If they press it, yes. Are you going to press it?

Mr. STRAUS: Oh, yes, sir, sure.

Mr. LEVIN: If your Honor pleases, there is nothing new about the Evidence Act, it has been passed on

time and time again. As a matter of fact, in the last opinion in 198 Md., the Court of Appeals refused to cite any more decisions, saying in that case they had cited opinion after opinion, that the bar knew them or ought to know them, and that a citation was found in the Code under that Section. So it is well known. It can not be said any lawyer in Maryland does not have at least a speaking acquaintance with it. The last case on the subject is the case in which your Honor had a part, the Whitehurst case. The Act says very specifically in an action by or against distributees of a decedent as such, in which decree may be rendered for or against them, no party to the cause shall be allowed to testify as to any transaction had with the deceased or with any statement made by the testator.

The COURT: What is that first part?

Mr. LEVIN: By or against distributees. Now, your Honor indicated yesterday inasmuch as this is an interpleader case, the rule might be different. Of course, I do not know what authority --

The COURT: I only asked the question.

Mr. LEVIN: I do not know of any interpleader case

in Maryland in which this question has been raised, but unquestionably this is a cause and this is a cause by this lady as well as other distributees as such. If they were not here in that capacity they could not sue at all. This lady, as well as these other persons in the Saulsbury claim are here only because they are distributees. Otherwise, they would have no right in this case at all. Now, it is an action, as I say, by a distributee of a decedent as such, in which a decree may be rendered either for or against them. Now, it is true that this is not the ordinary case where somebody is suing an estate, but this is nevertheless a case which comes exactly within the terms of the Section of the Code. Your Honor, in the Whitehurst case, took the position that the suit there was not against Mrs. Whitehurst, the assignee, as your Honor thought she was. You thought she was not a distributee but was an assignee, and you permitted the plaintiff in that case to testify as to the alleged marriage between her and the deceased, Mr. Whitehurst. The Court of Appeals said that was in error, and in saying that used this language, which I think is entirely applicable here. They

say: "The Chancellor, over objection, permitted the plaintiff to testify as to the alleged ceremony on the theory that the suit was not against the distributee as such, but was against Mrs. Taylor as assignee. We think this was in error."

(Further discussion followed).

Mr. STRAUS: Then I will ask her the question so as to get the ruling.

Q. Now, apart from the fact that your father gave you gold --

The COURT: That part I will strike out at this time as immaterial.

Mr. STRAUS: Your Honor will give us an exception.

The COURT: Certainly, to all rulings.

By Mr. Straus:

Q. How long did you continue to see gold in the house; I think you said the last time you saw it was on the occasion of your father's death. When did he die?

A. He died November 29th, at twelve o'clock, I think, at night.

Q. Of what year?

A. 1873.

Q. That was the last time you saw this gold in the drawer in the desk?

A. Yes.

Q. Now, I wish you would tell his Honor, if you please, Mrs. Audoun, as nearly and approximately as you can, when was the first time in the Eden street house that you saw this gold, the gold you have described in the drawer of the desk?

A. Well, when my father died I was fifteen all but two months when he died, and I judge -- I can't say date to date, but I think, say, about five years probably before that I had seen it, I remember. I must have been a girl then about ten or eleven years old, probably, when I first saw it.

Q. Now, I want to hand you these little desk drawers. Will you look at these desk drawers and say whether or not you can identify them? Do you recall them?

A. Yes.

Q. What drawers are they?

A. Those are the drawers that were in the desk.

Q. Was it in either of those that you saw this gold

coin?

A. In one of these drawers.

The COURT: For the purpose of the record, they are two little square, curly maple drawers from apparently an antique desk, approximately ten inches square, or something like that, eight inches square.

Mr. STRAUS: We will just file one and have it marked.

(Desk drawer referred to was thereupon marked and filed in evidence as "Exhibit Saulbury No. 9").

Q. Mrs. Audoun, a copper vessel has been produced here in evidence yesterday as the vessel or the container in which the gold discovered by these young men was found in the cellar of the Eden street house. Will you tell his Honor what recollection you have, if any, of any copper vessels or utensils being used in either the Central avenue house or the Eden street house, or both?

A. Well, as far back as when we had the housekeeper after my mother's death, we had copper cooking utensils. We had one very large preserving kettle and I will say two or three smaller cooking utensils.

Q. That was how far back?

A. That is as far back as the Central avenue house, because I remember this housekeeper having the --

The COURT: Oh, never mind all that detail.

Q. Can you say whether or not those utensils were taken to the Eden street house when you moved?

A. Yes, they were taken to the Eden street house when we moved.

Q. Can you recall particularly the smaller cooking utensils in the Eden street house?

A. Yes. We had one large one and these small ones.

Q. What was the material of those vessels?

A. Copper.

Q. Do you recall the servants cleaning them?

A. Yes, they cleaned them and I have a recollection --

The COURT: Oh, General, I think that is all immaterial.

Mr. STRAUS: It is just to show the definiteness of her recollection. I will be glad to have the Court stop me if you think it is superfluous.

The COURT: That does not help me along.

Mr. STRAUS: I am quite content to leave it out.

Q. First, before I show you this morning the vessel as the one in which the gold was contained, will you describe to the Court, according to your best remembrance, the smaller of these copper vessels to which you have referred; that is to say, the vessels which you distinguish from the large copper preserving bucket?

A. Well, the smaller ones I would judge would not be a gallon, probably. I think it was a vessel, to my recollection, about like that (indicating).

Q. That is, about nine or ten inches tall?

A. Yes.

Q. And in diameter, how large?

A. Oh, about that big around (indicating).

Q. That is about seven or eight inches in diameter, you would say?

A. Yes.

Mr. STRAUS: Your Honor, I do not know whether I am accurate in interpreting these sizes.

The COURT: I do not think it makes very much difference, General. You saw it in court yesterday when

it was produced, didn't you?

The WITNESS: I did not see it close.

The COURT: You were sitting on the front bench and it was held right up before you.

Mr. STRAUS: I would like to have it produced.

The WITNESS: I saw it at a distance.

The COURT: A distance from about where you are sitting to that bench, isn't it?

The WITNESS: I was sitting on the front bench. I could see it very plainly.

By Mr. Straus:

Q. How did the vessels which you have last described compare in appearance and in shape and size with the vessel which was produced here yesterday?

Mr. LEVIN: I think the lady ought to answer that question before it is opened up.

The COURT: Oh, she saw it all yesterday morning.

The WITNESS: I would like to see it.

Mr. LEVIN: The General has asked her a question which does not require her to look at it right now, and I think she ought to be required to answer again before she

looks at it.

The COURT: It does not make a particle of difference. She saw it yesterday morning.

Mr. STRAUS: Well, I think it was a great advantage and I think it highly proper that she should see it.

Q. Now, take and look at this vessel which was the one produced yesterday, and tell his Honor how the utensils which you have just described compare with this vessel?

A. About the size of that (indicating).

Q. Comparable to this?

A. They were about the size of that.

Q. And they were copper material?

A. Copper material.

Q. Was the shape the same as this?

A. Well, as far as I can remember.

The COURT: It hasn't got much shape now.

Mr. STRAUS: Well, you can distinguish the shape of that pretty well.

Q. Is the shape distinguishable and evident to you

as I hold it up?

A. Yes.

Q. Now, do you know anything, as a tradition or as a matter generally known in the family, of your father's views and sympathies with respect to the contending parties in the Civil War?

Mr. LEVIN: I object to that.

The COURT: Let her answer. Exception.

A. He was an ardent Southern sympathizer. That everybody knew.

Q. Now, do you recall an incident, or hearing of an incident, having relation to Union soldiers being at your house, your mother or your sisters meeting them as they were about to enter the house?

The COURT: You ought to distinguish which you are asking her. You say, Do you recall an incident or do you recall hearing an incident. One would be admissible and the other would not.

Q. Well, as a matter of family experience and tradition and history, do you recall anything known to the family as to that?

(Question objected to; objection sustained; exception noted).

The COURT: Do you recall seeing any Union soldiers in front of the house yourself?

The WITNESS: Oh, no. I remember that it was talked of --

The COURT: I did not ask you that, madam, you must confine yourself to what is asked you.

The WITNESS: No, I don't remember that.

By Mr. Straus:

Q. Do you remember seeing Union soldiers about the Central avenue property?

A. Oh, around there, yes.

Q. You lived in the Central avenue property up to the close of the war?

A. We saw lots of soldiers around there.

Q. Union soldiers?

A. Yes.

Q. And, of course, the actual fighting ended in April, 1865, and it was shortly after that that your father acquired the property, according to the record here?

A. Yes.

Q. Now, with reference to the house itself, the Eden street house, do you remember any pictures of any distinguished Southern generals in your father's house?

Mr. EBY: I object to that.

The COURT: I sustain that. He was an ardent Southerner. Whether he had pictures of General Lee on the wall is immaterial.

Mr. STRAUS: Well, I have pictures of General Lee and General Jackson here, and I offer them, may it please the Court, as showing his open attachment to the Southern cause.

The COURT: I do not think anybody disputes that. I will sustain the objection.

Mr. STRAUS: Very well, then, your Honor, and give me the exception. It is understood that I offer these pictures in evidence.

The COURT: I am putting it on the ground of immateriality, because if I admit them, there is no end to the Civil War.

Mr. STRAUS: In any event, I will offer them, may it please the Court, for the benefit of the exception.

The COURT: All right. They are offered.

Mr. STRAUS: Will you offer them for identification?

(Photographs referred to were thereupon marked, "Saulsbury Exhibits A and B", for identification).

Q. I am handing you a gold dollar coin dated 1859, and I ask you, after looking at it to say how that compares with the smaller pieces of gold which you saw in the desk in your father's home?

A. That is the same size, that is one of the sizes.

The COURT: I thought all dollar gold pieces were the same size at all times, weren't they?

Mr. STRAUS: Well, the mintage might be different, and this is 1859.

The COURT: Does she remember the date on it?

Mr. STRAUS: I do not know whether she does or not. She has not testified to the dates of any coins and I wish her, therefore, to say what she can from remembrance with respect to this coin as compared with the coins which you saw in the receptacle.

The COURT: Where does this one come from?

Mr. STRAUS: We are going to prove that it came from Mr. Saulsbury through his daughter Celeste to Mr. Reuben Foster.

The COURT: All right. Let her answer it.

Mr. LEVIN: Exception noted.

A. That looks like what I have seen in the desk.

The COURT: Did you ever see any one dollar gold coins that looked different from that?

The WITNESS: No, I have not. I never looked at them very closely. They all looked alike.

By Mr. Straus:

Q. Dollar gold pieces have not always been exactly minted alike.

A. I saw them in the drawer.

Q. This looks like what you saw in the drawer?

A. In the drawer, exactly.

Q. Now, Mrs. Audoun, do you remember a chest in your father's bedroom, a wooden chest?

A. Oh, yes.

Q. How far back have you a remembrance of that chest being in your father's bedroom?

A. All my life.

Mr. STRAUS: That chest has been brought to court. I want to offer it in evidence.

Q. Will you look at this chest which I am now showing you, which Mr. Schmidt is just bringing forward? Looking at the character and size of the chest and the stability, would you say that is the chest?

A. That is the chest, that is the sized chest and all, I think it has been painted since. It looks like it might have been. But that is the size and that is the chest that stood beside his bed.

Q. Was that chest ever opened whilst you lived in that house?

A. No, I never saw it opened.

Q. Do you know when the chest for the first time was opened?

A. Yes.

Q. When?

A. According to what my father's second wife told

me --

Mr. LEVIN: We move that be stricken out.

The COURT: Strike it out.

Q. You were not present yourself when it was opened?

A. No, I was not present but I had occasion to be interested in it.

Q. What is the occasion to which you refer as fixing the time of certain matters, of which we will produce evidence hereafter?

A. Well, after my father died, I judge it may have been one year or it may have been two years, a bank in the city advertised for the heirs and Julia A. Davis --

Q. Who was Julia A. Davis?

A. My mother.

Mr. LEVIN: We move that be stricken out.

The COURT: Overruled.

(Exception noted).

Q. Who was Julia A. Davis?

A. My mother, her maiden name, and my father had her bank book --

Mr. LEVIN: We move that be stricken out.

A. And the bank advertised --

The COURT: Let her go ahead. Exception.

Mr. LEVIN: It is immaterial.

The COURT: I think so, but go ahead.

A. And Mr. Armstrong, who was the administrator of my father's estate, called my brother's attention to it.

Mr. LEVIN: We move that be stricken out.

The COURT: This isn't material. Just get after what you are after.

A. And he said, "We will go to the bank", and when they went to the bank --

Mr. LEVIN: I move that be stricken out.

The COURT: Strike it out. She was not there.

By Mr. Straus:

Q. Was there an inquiry made for either the bank books or stocks or property of your mother?

A. Yes. He told my brother to go and find the bank book --

Mr. LEVIN: We move that be stricken out.

The COURT: Strike it out. Just skip over the details and get at what you want. Were you present when it was done?

The WITNESS: No.

The COURT: Then what is it all about?

The WITNESS: I received the money.

Mr. LEVIN: We move that be stricken out.

By Mr. Straus:

Q. Mrs. Auduon, was there an inquiry instituted about the heirs for property belonging to your mother, who was Miss Davis and who married Mr. Saulsbury?

A. Yes.

Q. And you say that was about a year or perhaps a year and one-half or two years after your father's death?

A. Perhaps two years. I was still a girl in school.

Q. You know of that inquiry being raised and some investigations being made following it?

A. Yes, and my mother or stepmother found the book in that chest.

The COURT: Were you there when they found it?

The WITNESS: No.

The COURT: Then do not tell us what you do not know. Strike it out.

The WITNESS: Your Honor, they found the book

because we got the money --

The COURT: But you were not there. You must not tell, under the rules of evidence, what different members of the family told you.

Mr. STRAUS: Well, it isn't material. We have proved the inquiry and that is all I need for the present.

Q. Did you ever see the contents of this chest, you yourself?

A. No.

Q. You did not?

A. I never saw anything in the chest.

Q. You say your father died on the 28th or 29th of November, 1873. Will you describe his illness and death to the Court?

A. Well, he was taken suddenly ill on a Monday and he had asthma, he was subject to asthma, and I have been told that it developed into pneumonia and he died on Thursday. But I never heard about pneumonia, I thought he died of asthma.

Q. Was his death expected or sudden?

A. No, he was taken very unexpectedly.

The COURT: He was taken ill on Monday. When did he die?

The WITNESS: He died on Thursday.

By Mr. Straus:

Q. When did he become seriously sick?

A. He was not seriously sick. I don't remember him being confined to the bed in that illness. He sat in a chair.

Q. And his death was very unexpected?

A. Very unexpected.

Q. In one of the newspaper accounts his age is given as forty-seven. What do you know about his age at the time of his death?

A. Well, I think my father was older, judging from the time he was married. I think he was in his fifties. I think he was a man about fifty-four when he died.

Mr. LEVIN: Of course, your Honor, we move that be stricken out as immaterial.

The COURT: I will let it stay in.

Q. He was not an old man when he died?

A. Oh, no.

Q. You think he could nothave been any older than fifty-four?

A. No, he was not any older than that.

Q- I want to ask you about the cellar and what you recall of the cellar. Just describe the cellar, the way you entered into it, and tell the Court how it extended, what parts it consisted of, and refer especially to the height, the distance from the ground to the top of the cellar or any parts of the cellar?

A. Well, there was only one entrance to the cellar and that was from the yard --

Q. Into which part of the cellar did that entrance lead?

A. Pardon me?

Q. Into which part of the cellar did the entrance from the yard lead?

A. On the south side the steps went and next to that was a meat house, we called it a meat house because hams and bacon and things were kept in there, and then there was a steps between the meat house and the north wall. There is where my father planted his oleander tree.

Q. That was the front part of the cellar, was it?

A. That was the front. I never was in the back part of the cellar, strange to say.

Q. Now, I wish to ask you, taking the first floor of the house -- of course, you have been there very often?

A. Oh, yes.

Q. As you went through the hallway from the entrance at the front of the house on Eden street and went back toward the rear of the house, were there any steps descending?

A. Yes, two steps from the front hall into a narrow hallway, the stairs went up, and there was a door that opened into the side yard where the cellar entrance was.

Q. So that the floor of the rear part of the house was lower than the floor of the front part of the house?

A. Yes.

Q. Now, you have referred to your father planting an oleander tree. That was in the front part of the cellar, you say?

A. I saw him plant it year after year on Thanksgiving Day in the front part of the cellar. He could not stand

it straight up, it was too tall, because the tree was taller than my father. But he put the root in the ground and he put it this way up to the top of the ceiling of the cellar. (Indicating).

Q. Put it in a slanting way?

A. Slanting way. I saw it planted year after year.

Q. Where did he transplant it from?

Mr. EBY: If your Honor please, we object to that.

A. From the yard.

The COURT: I must say I can not see the relevancy of planting an oleander tree to this case.

Mr. STRAUS: Your Honor will kindly allow me to make the offer? We offer to prove that each year as the winter came on, Mr. Saulsbury dug up the oleander tree from this place in the garden in the yard and took it into the cellar and planted it in the cellar in the manner in which the witness has described. We want to show that that occurred from year to year, so that he was constantly each year digging and burrowing in that cellar.

The COURT: General, I will exclude it for the

sake of economy on the record. I think it is wholly immaterial.

Q. And you would see him digging in the cellar, would you?

A. I saw it taken in the cellar every year and taken out in the spring.

The COURT: Madam, I will have to ask you to stop speaking for the sake of economy on the record.

Mr. STRAUS: If your Honor rules this out, I will simply ask for an exception.

The COURT: I rule it out.

Mr. STRAUS: Then the Court will be good enough to give me an exception.

Q. You say on the night your father died you saw the gold taken out of the desk drawer. Who took it out?

A. My stepmother.

Q. Mrs. Saulsbury?

A. Mrs. Saulsbury.

The COURT: How much did you see taken out, do you know?

The WITNESS: Well, I saw the hands go in like this

and taken out (indicating).

The COURT: You did not see it at all, then, according to your description?

The WITNESS: I saw the gold.

The COURT: How much of it did you see?

The WITNESS: Well, it wasn't a drawerful.

The COURT: Was it a handful?

The WITNESS: Oh, more than that; several handfulls.

By Mr. Straus:

Q. How nearly full was the drawer on that occasion?

A. I don't know how nearly full it was, but I can remember that there were several handfulls of gold taken out of that drawer.

Q. Just let me ask you one more thing. You recall two building associations. Do you recall the resolutions being given by a building association and in your father's possession?

(Objected to).

The COURT: I think that is all immaterial.

A. Yes, I remember that.

Mr. STRAUS: It all goes to show he was a man of substance and consequence. I will offer it in evidence.

The COURT: I will exclude it.

Mr. STRAUS: I will note an exception.

(Paper referred to was thereupon marked, "Saulsbury Exhibit C", for identification).

CROSS-EXAMINATION

By Mr. Niles:

Q. Mrs. Auduon, you said you never were in the back part of the cellar. Why was that?

A. Well, I never had any occasion to go.

Q. Do you remember whether the back part of the cellar and the front part of the cellar were the same height?

A. No, the back part and the front part were not the same height.

Q. Which was lower?

A. The back part of the cellar was lower than the front part.

Q. But you were never in there. Do you know

whether you could have stood upright in it?

A. Do you mean the front?

Q. In the back part?

A. I never was in there, I don't know.

CROSS-EXAMINATION

By Mr. Levin:

Q. Mrs. Auduon, your father was taken sick on Monday, you say, and he died on Thursday midnight?

A. Yes.

Q. When did he take to bed, on the Monday he was taken ill?

A. I did not see him in bed. He was in the chair all the time, nearly. I don't recall seeing him in bed with that illness.

Q. How about on the day he died, did you see him in bed?

A. No, he died in the chair right near the window.

Q. You had seen him in the chair, I suppose, all day the day he died?

A. Yes, he was seated in the chair every time I saw him.

Q. You say you saw the gold coin in the desk drawer the night he died?

A. Yes.

Q. Did you see it while he was still alive or was he dead?

A. Oh, he was dead. He had passed on.

Q. How long after he had died, how much time expired when you saw the gold after he died?

A. Well, I might say in the first hour.

Q. Somebody opened the desk and you saw the gold in the desk?

A. Yes, his wife opened it.

Q. You are not saying to the Court that you recognize this particular chest which you saw here, are you?

A. Yes.

Q. Was it in that condition when you saw it?

A. No, I say it looks to me like it had been painted since.

Q. That is what I mean. The chest which you saw in your house did not bear the color which this chest in court has?

A. No, it did not have that same color. I think it was gray.

The COURT: It is really a wooden box.

The WITNESS: Yes, it is really a wooden box, judge.

The COURT: About the size of a ballot box, isn't it?

Mr. LEVIN: Just a little larger in length.

Mr. STRAUS: It is more than a mere box.

Mr. LEVIN: It looks like eighteen inches wide, your Honor, and about three feet long.

The COURT: With a hasp on it and rollers on the bottom, isn't it?

The WITNESS: No, two pieces of wood.

By Mr. Levin:

Q. Anyhow, the box which you saw was not painted as this box is, you think it was a gray box?

A. I think it was gray when I saw it.

Q. You never, as I understand, saw anything in this chest?

A. No, I never saw anything in it.

Q. In other words, every time you saw it, if this is the chest, it was always closed and locked?

A. Yes.

Q. And it was never opened in your presence?

A. It was never opened in my presence.

Q. And you, of course, don't know what was in that box?

A. No.

The COURT: Any other cross-examination?

Mr. STRAUS: Your Honor, that is one question I omitted to ask.

The COURT: Go ahead.

REDIRECT EXAMINATION

By Mr. Straus:

Q. Who lived in the house immediately next to your father's house, 57 South Eden street, to the north?

A. Captain Wilson.

also p239

Q. Captain Wilson?

A. Captain Wilson.

The COURT: What number would that be?

The WITNESS: The old number would have been 55.

By Mr. Straus:

Q. As far as you know, did Captain Wilson ever live in 57?

A. No. Captain Wilson lived in 55 when we lived in 57.

The COURT: What was he captain of?

The WITNESS: I don't know that.

The COURT: Do you know what service he was in?

The WITNESS: No, I do not.

The COURT: They just called him Captain Wilson?

The WITNESS: Everybody called him Captain Wilson.

By Mr. Straus:

Q. Did you know what members of his family lived there with him?

A. I know there were two, I think his sisters lived there. There were two sisters lived there by the name of Miles. I don't know whether they were his sisters or whether they were any relation. I don't know that.

Q. But you remember them as living in that house, 55 South Eden street?

A. I remember them living there when we lived there.

(Testimony of the witness concluded).

Thereupon - - -

MRS. MAE H. NEUDECKER,
a witness of lawful age, produced on behalf of the Sauls-
bury estate, having been first duly sworn according to law,
was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Straus:

Q Mrs. Neudecker, what is your full name?

A Mrs. Mae H. Neudecker.

Q And you are a widow?

A Yes.

Q Your maiden name was what?

A Hudgins.

Q You are a daughter of John R. Hudgins?

A I am.

Q He is the John R. Hudgins mentioned in the
newspaper was one of the pallbearers of Mr. Saulsbury?

A Yes.

Q Do you recall the Saulsbury family living in
the house 57 South Eden Street?

A I remember them very well.

Q Did your family live in that neighborhood?

A We lived at 73 South Eden Street.

Q What do you remember of the circumstances of the Saulsbury family?

A They were in very good circumstances, they lived very well, they had a beautiful home and the children were all dressed well and they had plenty of servants and were considered very prosperous.

Q Do you recall about when, what were the years they lived there?

A No. I should judge from 1865, that is as far back as I can remember, to the time that we left there. We moved away in 1873 and they were still there. They lived there long after that and I think they lived there until 1883.

Q Then one of the most complimentary things I can ask you would be to state your age to the Court?

A Well, I don't mind doing that, I am seventy-three.

Q You are seventy-three years old?

A I am.

Q Do you remember the occasion of Mr. Andrew J.

Saulsbury's death?

A Yes, I do.

Q What can you tell the Court about it?

A Well, except it was a great shock to my father.

He was a very intimate friend --

MR. EBY: I object.

THE COURT: I think it is immaterial.

Q Was it very sudden or an expected death?

A Very sudden.

Q Do you remember the funeral?

A No, my father was one of the pallbearers. I was a child and I did not go.

Q In what business was your father?

A My father manufactured edge tools, and afterwards he was in the commission business.

Q Do you know whether or not he supplied oysters in barrels or in quantities to his customers?

A Oh, no, but my father was a Virginian and he always had oysters sent up from Virginia and possibly he may have given them to Mr. Saulsbury as a gift.

THE COURT: Oh, no, I won't permit that. Strike that out.

Q Do you remember seeing oysters in the Salisbury home?

A No. I don't think I ever played down in the cellar. I played on the street with the children.

(Testimony of the witness concluded.)

- - - - -

Thereupon --

MARTHA SAULSBURY SHORT,

a witness of lawful age, produced on behalf of the
Saulsbury Estate, having been first duly sworn according
to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Straus:

Q. Mrs. Short, who was your father?

A. Andrew J. Saulsbury.

Q. Where did he live during his lifetime?

A. 57 South Eden street.

Q. Were you born at 57 South Eden street?

A. I was born there.

Q. What year were you born?

A. Why, 1866.

Q. How long did you continue to live in the house,
57 South Eden street?

A. I was one year old, lived twenty years in that
house.

Q. You lived there in 1885 or 1886, then?

A. About 1885, yes.

Q. Do you recall when your father died?

A. Yes.

Q. When did he die?

A. I understood in 1873. I was a little girl.

Q. Do you recall seeing any gold in the house?

A. I certainly did.

Q. Tell his Honor what you remember about that.

A. I saw the chest opened and a little pasteboard box about four inches square removed and put in a top bureau drawer.

Q. Which chest have you reference to?

A. This chest.

Q. The chest that has been produced here?

A. That old chest.

Q. And about which Mrs. Auduon testified?

A. Yes.

Q. Was the chest in the condition then in which it is now?

Mr. LEVIN: She said she saw the chest opened. I think we ought to know by whom she saw it opened.

Mr. STRAUS: Let me ask her a few questions about

the chest first.

Mr. LEVIN: No, I beg your pardon, General, I would like to know right now because my course will have to be determined right now.

The COURT: Who opened it?

The WITNESS: My mother, and I saw it opened and the little keys hanging --

Mr. LEVIN: All right, you have answered it. You saw the chest opened by your mother.

Mr. STRAUS: I would rather you would not interrupt my examination, I see no purpose in it. If there is anything you object to --

The COURT: General, I can see the point. He thought that if her answer would be by her father, then it might be a transaction with the deceased.

Mr. STRAUS: Even if she saw it opened by her father, that would not be a transaction.

The COURT: Well, it is all past now.

Mr. STRAUS: I would rather an objection be made to the testimony than my examination broken into, if your Honor please.

The COURT: It is past history now.

By Mr. Straus:

Q. About when was it, before or after your father's death that you saw your mother open this chest?

A. After.

Q. And about how long after your father's death?

A. That I don't recall.

Q. Approximately how long, Mrs. Short?

A. Well, I thought it was about -- she did not think of it at first after his death. His boyhood belongings were there --

The COURT: Try to answer the question you are asked, don't run in so many voluntary explanations.

Q. Approximately how long after your father's death was it that your mother opened the chest?

A. Well, I thought about three or four months.

Q. That is your recollection?

A. That is my recollection.

Q. When the chest was opened, what did you see in the chest?

A. Money, this little box of gold and ever so many

two and three cent pieces which she had to take to bank. Huge copper coins which she gave to the children and we had a perfect orgy spending them. Then papers, little books, his cherished possessions as a boy --

Q. About what quantity of coin was in the chest, full or nearly full or what?

A. Over half full; his boyhood savings.

collection

The COURT: You were not asked that, you were asked what you saw in the chest. You don't recall anything about his boyhood savings.

The WITNESS: Well, that is what he said.

The COURT: Confine yourself to the question asked you.

The WITNESS: Well, money.

By Mr. Straus:

Q. You say there was a small pasteboard box containing gold coins taken out of this chest?

A. Yes.

Q. What was done with that?

A. Put in a top bureau drawer and locked up.

Q. Do you recall whether or not you ever received

any of that gold?

A. Two gold pieces.

Q. That is, from your mother?

A. From my mother.

Q. Out of that box?

A. Out of that little box.

Q. Do you recall what the denominations were, what the sizes of the coin in that little pastboard box were?

A. One dollar and two and one-half dollar gold pieces.

Q. Do you recall seeing any gold in the drawer of the desk about which Mrs. Auduon has testified, have you any personal knowledge of that?

A. Only money that she drew to pay his funeral expenses and doctor bills.

Mr. LEVIN: We move that be stricken out.

Q. That who drew?

A. My mother.

Mr. LEVIN: Wait a minute, General. We move it be stricken out.

The COURT: I will strike it out for other reasons.

Q. Did you see the money taken out of any of the drawers?

A. Plenty of money.

Q. Of the desk?

A. Yes.

Q. What kind of money?

A. Gold.

Q. Who took it out?

A. My mother.

Q. Was that before or after your father's death?

A. After my father's death.

Q. What were the sizes of the coins and gold pieces then taken out by your mother?

A. Not all one kind, various coins.

Q. Various coins and various sizes?

A. Yes.

Q. I was about to ask you something regarding this chest when I was interrupted. How long do you recall seeing that chest in your father's bedroom?

A. All my lifetime, never without it.

Q. Was it painted as it is now?

A. No, it was gray.

Q. Is there any possible doubt in your mind that that is the chest?

A. Not the slightest doubt; absolutely positive.

Q. You identify it perfectly despite the fact that it is a different color now. Was it ever opened in your presence, or, as far as you know, during your father's lifetime?

A. It was never opened. My mother knew not its contents.

Mr. LEVIN: We move that be stricken out.

The COURT: Strike it out.

Q. In your presence was it ever opened?

A. No.

Q. I mean before your father died?

A. No.

Q. Mrs. Short, do you recall seeing any copper utensils in the family, used in the Eden street household?

A. I do.

Q. What sort of copper utensils were they?

A. Preserving kettles and smaller vessels about that

size (indicating).

Q. How high would you say the smaller vessels were?

A. Two were larger and one was the size of this container here.

Q. The one produced in evidence here?

A. Yes. Their shiny appearance attracted my attention.

Q. And they were copper?

A. Copper.

Q. How long did you continue to use those things in your father's house after his death?

A. Oh, we took them to Calvert street when we moved.

Q. Have you any of them now?

A. One copper bucket which I can produce and let you see.

Q. You removed them from the Eden street house, you say, about 1885 or 1886?

A. Yes.

Q. Is the copper bucket to which you refer, either of the buckets or receptacles which you saw like the jar or the receptacle produced here yesterday?

A. No, this is larger.

Q. Have you any still in your possession?

A. Not of the smaller size.

Q. What do you know of your father's political sentiments with reference to the Civil War?

Mr. EBY: We object.

The COURT: Let her answer.

A. My mother went out with another of her daughters one day and a Union soldier was at the door and she could not get in until --

The COURT: Were you there, did you see it?

The WITNESS: My mother told me that.

The COURT: I do not want what your mother told you. That is the third time I told you not to tell what other people told you.

The WITNESS: Your Honor, I beg your pardon.

Mr. LEVIN: We move it be stricken out.

The COURT: Strike it out.

By Mr. Straus:

Q. What were your father's sentiments, according to the traditions of the family?

A. Southern.

Q. What do you recall, if anything, about oysters in their shells being kept in the cellar of the house, 57 South Eden street?

(Question objected to; objection overruled; exception noted).

A. A barrel of oysters every winter, open house when he entertained public men. It was an old family custom with my father.

Mr. LEVIN: We move that be stricken out.

Mr. STRAUS: It is an habitual occurrence in the house.

The COURT: Oh, well, City Councilmen still go to oyster parties.

Q. You recall seeing oysters in barrels in the cellar?

A. And oyster shells.

Q. What do you recall about seeing oyster shells in the cellar?

A. Piled up in the corner of that meat house where they had been shucked.

Q. Now, Mrs. Short, I wish you would tell the Court something about the nature of the cellar there; the various

compartments of it and just all that you remember about it, having reference particularly to the height of the cellar in its various parts.

A. We were tall, all his children by his second wife were tall. We could stand up perfectly straight in the front part of the cellar until the beginning that went back away, the front hall steps went down two good steep steps to the lower back hall. That made a very low floor back, but we could stand up in the front part of the cellar.

P The COURT: How tall was the space in the back part of the cellar where you could not stand up?

The WITNESS: I would say about four feet.

The COURT: A dirt bottom, was it?

The WITNESS: Dirt bottom. It has been greatly changed.

MR. NILES: Did you say it has been changed?

The WITNESS: Greatly changed.

The COURT: How?

The WITNESS: Oh, practically a new front was put in --

The COURT: Had the back cellar been changed?

The WITNESS: Oh, I know nothing of the back cellar, but the whole house has been -- my son visited there and saw --

The COURT: Never mind what your son saw, we want to know what you know.

The WITNESS: Well, I have not been in that home since I left it.

The COURT: Then just say so.

By Mr. Straus:

Q. I want to ask you a question or two about your sister, Mrs. Auduon. She is a widow, isn't she?

A. Yes.

Q. And has been for many years?

A. Oh, I don't know now. She has taught school. She is now pensioned.

Q. How many years did she teach school, would you say, generally -- in Baltimore city, do you mean?

A. In Baltimore city.

Q. And for how long a time?

A. Well, I just don't know how long. Then she

married, was a widow, went back and pensioned, I think, at sixty-five.

Q. You mean when she reached the age of sixty-five she was pensioned?

A. Yes.

Q. Oh, I do want to ask you a question about your father's leg or foot. Was he at all lame in either of his legs or feet?

A. One shoe was higher than the other.

Q. First about his leg, was he lame?

A. He was lame.

Q. Was that lameness in one or both of his feet?

A. One.

Q. Will you tell his Honor whether or not because of that he wore a certain sort of shoe or boot, whatever it may have been?

A. A thick sole boot made high, come up high to support his ankle.

Q. Who made his shoes, by the way?

A. Lemkuhl, all made to order. His son is still living, I think.

Q. What was the customary habit of your father with reference to making presents to the children of the family and the servants in the household on Christmas and Fourth of July, and special holidays?

Mr. EBY: We object.

The COURT: I think it is wholly immaterial, but let her answer without a lot of detail.

Q. Was he accustomed to making presents?

A. Yes, gold pieces.

The COURT: Exceptions to everybody.

Q. He gave presents in gold to all?

A. Yes, small.

The COURT: You mean at Christmas and special holidays?

The WITNESS: The servants came in and were lined up and presented with their gold pieces.

The COURT: I say, on Christmas and special holidays?

The WITNESS: Yes.

By Mr. Straus:

Q. How was it that this box came to be opened at

some time after your father's death?

A. He never told us --

The COURT: Don't tell what he never did.

A. The advertisement in the paper brought forth the bank book.

By Mr. Straus:

Q. There was an advertisement in the newspapers inquiring for the heirs of the Davis family?

A. Yes.

Q. And your father's first wife had been a Miss Davis?

A. Yes.

Q. And that inquiry led to the opening of this box and a search of its contents?

A. Yes.

Q. And that was some time after your father's death?

A. Yes.

Q. Do you happen to know how the gold or coins found in this chest were used, what was done with those special coins?

A. My mother bought a headstone --

Q. That is exclusive of the gold found in there.

I mean the smaller coins.

A. It had remained at his head in life and she put it at his head in death, a lovely tombstone.

Q. Was there a portrait of him painted?

A. A beautiful oil painting.

Q. Who painted that, do you know?

A. Harley, registered painter.

Q. Was that a tradition of the family, who painted it?

A. Yes.

Q. And was Harley paid from the coins in this chest?

A. Paid from the coins in that chest.

Q. Do you remember anything about the annual transplanting in the fall of the oleander tree?

(Question objected to).

The COURT: I think I will leave out the oleander tree. Exception.

The WITNESS: I am glad of that.

Q. Did your brother James, as well as you remember,

wear boots?

A. He certainly did.

Q. And James was the oldest of all the children,
was he not?

A. Yes.

Q. Do you recall his wearing boots in and about the
house on Eden street?

A. I did. I saw them.

Q. Now, one other thing. Who lived in the house
immediately to the north of your home?

A. Captain Wilson.

Q. What do you know of his household and family,
who lived there?

A. I visited there; the quaintest family.

Q. And you were personally acquainted with them?

A. I was personally acquainted with them.

Q. Who lived there in the house with them?

A. His wife and sister-in-law and old Captain Miles.

The COURT: What was Captain Wilson captain of?

The WITNESS: He went to Rio de Janeiro. I
don't know the ship.

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The COURT: I did not ask you that. I asked you in what service.

The WITNESS: That I don't know.

The COURT: Was he captain of some ship?

The WITNESS: Yes.

The COURT: You do not know the name of it?

The WITNESS: No.

The COURT: Would you know it if you heard it?

The WITNESS: No.

By Mr. Straus:

Q. But you remember him as living in the house to the north?

A. Oh, yes, distinctly.

The COURT: You never heard about the "Spitfire", did you?

The WITNESS: No, never heard of the "Spitfire."

CROSS-EXAMINATION

By Mr. Shea:

Q. Mrs. Short, do you recall a family living in that neighborhood by the name of Bartholomew?

A. I do not.

*city
directories?*

Q. You say you were quite friendly with Captain Wilson's family?

A. Very.

Q. Was his mother living at the time?

A. No.

Q. Do you recall the circumstances of his death?

A. No.

Q. Do you know of a family by the name of Klunk?

A. No, it is foreign to me.

CROSS-EXAMINATION

By Mr. Niles:

Q. Mrs. Short, were these copper utensils you spoke of made of solid copper?

A. This bright and shiny copper, but as for that, I was too young to remember that.

Q. You don't know how they were made?

A. No.

Q. Do you remember how it hung on the wall?

A. Under the mantelpiece.

Q. Did they have handles on the top or side?

A. That I don't recall.

Q. Do you remember whether there were other utensils in other sizes which you saw at the same time?

A. Yes.

Q. And these looked just like the others?

A. Yes.

Q. They were the usual copper cooking utensils?

A. Colonial style.

Q. But you don't know how they were constructed?

A. No.

Q. Whether they had seams in them or anything of that sort?

A. No.

REDIRECT EXAMINATION

By Mr. Straus:

Q. Did you or not say that one of them looked like the vessel that was produced here yesterday?

A. I certainly did; just that size.

Q. And shape?

A. Well, it did not look like that.

Q. What did you say?

A. It looked as though it might be the wreck of that shape.

(Testimony of the witness concluded).

Thereupon - - - -

REUBEN FOSTER,

a witness of lawful age, produced on behalf of the Saulsbury Estate, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Stein:

Q Mr. Foster, will you tell us who your mother was before her marriage?

A My mother was Celeste Saulsbury.

Q She was a daughter of Andrew J. Saulsbury?

A Daughter of Andrew J. Saulsbury.

Q And you have recently been appointed administrator d.b.n. of Mr. Saulsbury's estate?

A I have.

MR. STEIN: I offer the letters in evidence.

(Papers referred to were thereupon filed and marked in evidence as Exhibit Saulsbury No. 10.)

Q Is your mother living now?

A No, she died October, 1932.

Q I would like to hand you this and ask you if

you can identify it?

A Yes, this dollar gold piece --

MR. HARRY LEVIN: I think you ought to first show where he got it from.

THE COURT: That is all right, go ahead.

A This dollar gold piece was given to me by my mother, and at the time she gave it to me she told me --

MR. LEVIN: We object to that.

THE COURT: You cannot tell what she told you.

A Well, this dollar gold piece dated 1859, was given to me by my mother.

MR. STEIN: If your Honor please, we think hearsay testimony is admissible, being one of the exceptions in this case, to prove family tradition. It is something that has been handed down from one generation to the next and it is incapable of being proved at the present time except by hearsay, and that is one of the well recognized exceptions to the rule excluding hearsay testimony.

THE COURT: Family tradition would not prove anything. You may prove age and pedigree like that. What is it you want to show?

MR. STEIN: I want to show that this is a coin

which came down as an heirloom.

THE COURT: What difference would it make if it did?

MR. STRAUSS: We want to show it as coming from Mr. Saulsbury.

THE COURT: Well, there were hundreds and thousands of gold pieces in those days. I do not think it makes any difference where it came from.

MR. STEIN: If your Honor please, we would like to call attention to the date of the coin. That might have some significance. That is the only reason for offering the coin now.

THE COURT: I will let it in.

(Coin referred to was thereupon filed in evidence as Exhibit Saulsbury No. 11.)

THE WITNESS: At the time she gave it to me she told me --

MR. LEVIN: Wait a minute. Does your Honor allow it in?

THE COURT: Yes, with an exception to you.

A (Continuing): At the time she gave it to me,

she told me it had been given to her by her father during one of the holiday seasons, that at those holidays it was his custom to give gold pieces to the family and that this had been given to her by her father.

Q (By Mr. Stein): Will you look at that coin and tell us what the date is?

THE COURT: He just told you it was 1859.

A 1859.

MR. STEIN: Witness with you.

MR. LEVEN: No questions.

(Testimony of the witness concluded.)

- - - - -

MR. STRAUS: Your Honor, you will allow Mr. Stein to keep that gold piece?

THE COURT: Well, it does not belong to us.

MR. STRAUS: I mean you do not want the stenographer to keep it?

THE COURT: No, he is not keeping any of the exhibits.

MR. STRAUS: Your Honor, we have but really one more witness. We had two but one is indisposed, and we will not press her testimony, because her testimony would be cumu-

lative. But there is one witness who has testimony to give of what I consider of great deal importance, a Mr. Kavanagh, a coppersmith.

THE COURT: Down on Central Avenue?

MR. STRAUS: Yes, sir.

THE COURT: There is he?

MR. STRAUS: He was taken by Mr. Stein to look at this receptacle but he was not allowed by the Police Department to have it in his hand. We want him to examine it, and he is in Washington today.

THE COURT: What does he want to testify to?

MR. STRAUS: He expressed the view that it was copper, and that the condition of it, as he saw it, although not upon a very close examination or a minute examination, but as he saw it, he said it had been in the ground from fifty to seventy years, certainly considerably above fifty years, and its condition indicated that. Now, we want to prove that.

THE COURT: He is a coppersmith, I think I know him, but what are his qualifications for copper under the ground?

MR. STRAUS: Well, looking at it, he would say it had been corroded and it had been corroded -- and that it had been under ground, he would say, from its condition, it must have been under ground considerably more than fifty years, and as high as seventy years.

THE COURT: I say what are his qualifications as to judging time of copper under the ground?

MR. STRAUS: Well, he has had a long experience. He would be able to state, from the appearance of it, as he says, the length of time it has been under ground.

THE COURT: We will give you a chance to put him on and qualify him as an underground coppersmith. I will give you a chance to produce his testimony. Unless he has some scientific information of copper under ground different from what we have to make a fairly good guess, I might say I made one yesterday that certainly it had been under ground more than seventy years.

MR. STRAUS: We think it would be very instructive to the Court and your Honor can make up your own mind --

THE COURT: We will give you an opportunity to produce him. I know Mr. Kavanagh. He used to be a client of mine.

MR. STRAUS: That ought to accredit him to your Honor.

THE COURT: We will take him tomorrow or whenever he comes in.

MR. STRAUS: That will be all of our testimony then.

THE COURT: Then that claimant rests, subject to the right to call Mr. Kavanagh. Now, the next claimant.

MR. HARRY LEVIN: I do not think anybody else is represented in Court, your Honor.

THE COURT: Well, of course, I did not know that. I wanted to accommodate every one represented to get their testimony in. We have put off another case, assuming that this would take all day. Suppose we suspend sometime, if it is agreeable to you -- we have Mr. Niles' claim in and Mr. Levin's claim in and General Straus' claim in, suppose we apply the law to those three different varieties of claimants to determine their status? Their claim is practically in with the exception of this one little tail piece, who may or may not be an expert. Anyway, he is a coppersmith of long standing in the community. Let us hear the law you

have as bearing on the respective claims. Senator Levin, you have the opening.

MR. LEVIN: I have no objection to opening. The only thing is that General Straus is a claimant.

THE COURT: You are a discoverer. You are all claimants under the interpleader bill.

MR. LEVIN: I took the opportunity to present to your Honor in advance of this hearing a resume --

THE COURT: It is a very long, and I assume learned brief, but I have not had an opportunity to read it yet.

(Argument to the Court followed.)

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(Recess from 1:15 P. M. until 2:15 P. M.)

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AFTER RECESS (3:13 P.M.)

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MR. LEVIN: Your Honor, before General Straus begins, I would like to have the opportunity of putting the boys on the stand for about five minutes.

THE COURT: Go ahead.

MR. NILES: Your Honor, do I understand that this testimony is directed to the argument I have already made?

THE COURT: Well, he can make it over. I do not know what it is. As long as the case is still on trial, it is still open for the taking of testimony by anybody and everybody.

MR. NILES: Your Honor, I should like to make an objection if it is what I think it is.

THE COURT: I will take the testimony and give you an exception.

Thereupon - - -

HARRY FLEISCHER,

a witness of lawful age, produced on behalf Theodore Jones and Henry Grob, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Levin:

Q What is your name?

A Harry Fleischer.

Q What is your business?

A I am a pocketbook maker by trade.

Q Where do you live?

A 132 South Eden Street, second floor front.

Q How long have you lived there?

A Since December 27th, 1933.

Q Who do you rent it from?

A Mr. Kalis.

Q The man who was on the stand?

A Yes, sir.

Q Who do you pay your rent to?

A Mr. Kalis.

Q And the back part of that floor is occupied by Mrs. Jones?

A Mrs. Jones.

Q Have you ever been in the cellar of that place?

A Yes, sir, many times.

Q Have you ever been in the rear part of that cellar?

A Yes, sir.

Q What is back there that is yours or of anybody's.

A Two little sheds to keep the coal and wood.

Q What else?

A Then Mrs. Jones occupies one in the front and in the rear is four electric meters, then there is a small cot, a bed cot, and the rest all dirt.

Q Who do those meters belong to?

A To the flats in the house.

Q Did you ever have occasion to go into that cellar?

A Yes, sir.

Q Did you ever see any other tenants in that cellar?

A Yes, sir.

Q I mean in the back part?

A Yes, sir, they went down there when some fuses were burnt out.

Q Do you know the place now where the gold was found?

A Yes, sir.

Q Have you ever been in that part of the cellar?

A I was there before the gold was found. I picked up a whole basin of ashes.

Q Did you ever see any tenants in the part of the cellar where the gold was found?

A Yes, sir.

Q Has Mr. Kalis, the landlord, been there when you or any other tenants were there?

A Mr. Kalis was many times in the cellar and he saw me around the cellar.

Q In the part where the gold was found?

A Yes, sir.

Q Was any complaint made by Mr. Kalis about you being there?

A No, no complaints. In fact, he gave me the

privilege -- I asked him for a place to keep coal and he gave me the privilege to keep my things in the cellar.

Q Did you ever see Mrs. Jones down there?

A Yes, sir.

Q What other tenants have you seen down there?

A I have seen the old lady from the third floor, Mrs. Smalowitz.

Q Do you know which tenants were there whenever Mr. Kalis came there?

A No.

Q But several of the tenants --

A Several of the tenants I used to see in the cellar.

Q Were there any objections ever made by Mr. Kalis?

A No, sir.

Q You are familiar with the condition of the cellar before and after the gold was found, are you?

A Yes, sir.

Q What difference is there in that cellar before the gold was found and after?

A Well, the difference is before was a lot of dirt in the cellar and I made a complaint to clean out the

cellar because it was a bad smell and Mr. Kalis never paid any attention to the property and after the gold was found, Mr. Kalis sent around his carpenter, you know, to fix the door up and put a lock on it.

Q Was that door and that lock there before the gold was found?

A No, sir, after the gold was found.

MR. LEVIN: Thank you very much.

MR. NILES: Your Honor, I would like to renew my motion to strike out the testimony.

THE COURT: I will overrule that.

MR. NILES: Grant me the exception.

THE COURT: I also give you the right to contradict it, if you want it.

CROSS-EXAMINATION.

By Mr. Niles:

Q Mr. Fleischer, what do you do in the back part of that cellar?

A Many times I went down, I had trouble with the electricity, I went down to put fuses in.

Q When you blew out a fuse you went down to put

another one in?

A Yes, sir.

Q What else did you do there?

A I went down to get my coal.

Q You mean you kept your coal in the back part of the cellar?

A Not in the back part, in the front part.

Q What else did you go in the backpart of the cellar for?

A For no reason, but I used to go there.

Q What for?

A For no reason at all. I used to go there -- it was a lot of old basins full of ashes, and like I said before, I picked up the old basin for ashes.

Q What did you do with that?

A I used it.

Q In other words, you went down and took it?

A Well, it was laying around and I took it.

Q How many times did you go there?

A Three times a week sometimes.

Q You mean in the front part?

A In the front part.

Q I am talking about the back part?

A I would not say I went every day, but I went down there at least once in two months.

Q How often did you go there to fix your fuses?

A Well, I nearly had trouble every month with my fuses.

Q Did you complain to Mr. Kalis?

A No, sir.

Q Did you?

A No.

Q So he did not know you went down there?

A Well, he gave me the privilege. It is my meter there and, as a matter of fact, right after the gold was found a lock was put on the door and I complained to Mr. Kalis I did not have the key to open up and he gave the one key to the downstairs lady and he told her to put a lock on it, and I told him I have trouble with my meters and a week later the lock was taken off and it is again open.

Q What I want to know is, how often you went in the back part of the cellar to fix fuses between December, 1933 and August, 1934?

A I can't say I went down there often.

Q You said at least every two months?

A Yes.

Q And you said also you did not complain to Mr. Kalis about the fuses blowing out?

A No.

Q I think you said also you did not ask his permission to go back there?

A No, I did not.

Q Now, you say other tenants you saw in the cellar?

A Yes, sir.

Q And you saw them in the front part of the cellar, didn't you?

A Yes, sir.

Q You did not see them in the back part?

A I saw the third floor lady used to go down there. There was a lot of wood there laying around and she used to chop the wood up in the back part of the cellar.

Q You mean in the part --

A Where the gold was found.

Q Did she lean over and stoop to get in there?

A Yes, she had to bend down.

Q And she chopped the wood back in there?

A Yes, sir.

Q Stooping over?

A Yes.

Q Who was that?

A Mrs. Smalowitz.

Q How do you spell that?

A I don't know how she spells it. You can spell it the best way you can.

Q Say it again?

A Smalowitz.

Q That was during what time she did it?

A That was during the last winter.

Q That is the winter of 1933 to 1934?

A That is right.

Q Did she go down there in the summer?

A During the summer I did not see her.

Q Did you see any other tenant back there?

A No.

Q Did I hear you say that that door was not on there until the gold was found?

A That is correct.

Q It was not on there until the gold was found?

A No.

THE COURT: The door or the lock?

THE WITNESS: The door was not on.

Q (By Mr. Niles): Did you ever see these boys back there?

A No.

Q Did you ever see Mr. Kalis back there?

A Yes, sir.

Q What was he doing back there?

A Well, I saw him here a little after the gold was found.

Q No, I mean before?

A Before I saw him just about a couple times. He sent his plumber down to fix the pipes.

Q As I understand it, you went down there only to put fuses in?

A Fuses.

Q What kind of light was back there?

A No light.

Q What kind of light did the lady from the third floor use when she was chopping wood?

A Well, she hasn't got electric.

Q She was chopping in the dark, was she?

A Well, with a candle.

Q Did you ever see anybody else doing anything there?

A No.

Q So that as I understand you, you went there to fix fuses and you saw Mrs. Smalowitz chopping wood there?

A Yes, sir; many times.

Q You said you were only there once in two months?

A Well, she used to go down because it was a lot of wood and every time I went down the cellar to get coal I saw her in the back with a candle to chop wood in there.

Q How often did you go down to get coal?

A Nearly every day.

Q And you saw her every day down there?

A Every day.

Q In the back part where she had to stoop over,
chopping wood with a candle?

A Yes, sir.

MR. NILES: That is all.

(Testimony of the witness concluded.)

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MR. LEVIN: That is all, sir.

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NOTE: Not concluded, to be resumed at a later
date.

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Thursday, January 3rd, 1935.

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Hearing in the above entitled cause was resumed on Thursday, January 3rd, 1935, at ten o'clock A. M.

Present : Counsel for the respective parties.

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Thereupon - - -

JAMES D. KAVANAGH,

a witness of lawful age, produced on behalf of the Saulsbury Estate, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Straus:

Q Mr. Kavanagh, what is your name and address and business?

A My name is James D. Kavanagh. My business is coppersmith. I am at 3810 Fleet Street at present, formerly Pratt and Central Avenue; Joseph Kavanagh Company.

Q How long have you been in the business of coppersmith?

A Thirty-five years myself; my people since
1866.

Q Would you say whether or not your business with copper metals and utensils and articles made of copper would enable you to form an estimate and express an opinion as to how long any copper vessel had been in the earth, assuming it had been in the earth for a substantial time?

A Well, the only way you can do that --

Q Well, would it or not?

A You could -- yes, you can.

Q Now, I am going to hand you --

MR. LEVIN: What does the witness mean "you can?"

THE COURT: He means it can be ascertained with some degree of accuracy.

MR. LEVIN: Does the witness mean that he can or whether certain persons can?

THE COURT: Go ahead.

MR. STRAUS: I asked him whether he could.

Q I am going to exhibit to you a copper vessel which has been produced in this case and ask you to look at

it and tell his Honor how long, approximately, in your opinion, that vessel has been in the earth. It is already proved that it has been taken from the earth.

MR. LEVIN: We object to the question, your Honor.

THE COURT: I will let him express his opinion for what it is worth.

Q (By Mr. Straus): Will you look at it?

A You want me to state from the time I seen it in the property room first?

THE COURT: The question is, Mr. Kavanagh, looking at that vessel and assuming it is copper and assuming it has been buried in the earth for a considerable time, the question is are you able to express an opinion as to how long it has been buried in the earth, from your supposed to be greater knowledge on the subject than anybody else around here in the business?

THE WITNESS: The only way I can answer the question is from a practical standpoint.

THE COURT: Well, that is not expert testimony. We are practical ourselves.

THE WITNESS: I mean from being in the business.

Q (By Mr. Straus): Could you express an opinion, as his Honor says --

MR. LEVIN: Wait a minute, answer his Honor's question.

Q (By Mr. Straus): His Honor says assuming this to be copper and it has been already proved that it is copper and assuming that it has been in the earth for some time, are you able, from your experience with copper and the copper utensils, are you able to express an opinion by inspecting this vessel as to about or approximately how long it has been in the earth?

A Well, I would say yes --

THE COURT: Listen, Mr. Kavanagh. Not knowing what the condition of the vessel was at the time it was buried.

Q (By Mr. Straus): Looking at that vessel as it is, could you say how long it has been in the earth, if it has been in the earth?

A Yes.

Q Now, about how long would you say, from an inspection of this vessel, it has been in the earth or it was in the earth?

A I would say to deteriorate in the condition it is in and the locality where it was, it would be there at least over fifty years.

Q And the locality was what?

A Around the Eastern District, Central Avenue.

Q Would the same thing apply to Eden Street, do you mean?

A Well, that would go that far. It would go further than that. It would go clean out to Patterson Park Avenue almost because it is in the low section of the water front.

Q You say it would be at least fifty years?

A At least fifty years to deteriorate that way,
that copper.

Q And for how long a maximum would you say it had been in the earth?

A Well, now, that is very hard. It may be there a little more but it is just according to how it was exposed to the air.

Q Suppose it were not exposed to the air but under the earth?

A Then it would take longer for that to eat.

Q And about how long would you say?

A I thought I put a right good time at that.

Q You say fifty years at least?

A Yes, easy.

MR. STRAUS: All right, thank you, that is all.

CROSS-EXAMINATION.

By Mr. Levin:

Q In answering your question, Mr. Kavanagh, venturing your opinion, you simply did it by not touching it, by General Straus showing it to you and you looking at it nor did you examine it through any instrument of any kind but just by looking at it, held about a foot away and you have expressed this opinion?

A No, I seen that bucket before now.

Q Where?

A In the property room.

Q When?

A About a week ago.

Q At whose request?

A I was asked to look at it.

Q By whom?

A By Mr. Straus.

Q Were any of these other counsel there?

A Not as I know of.

MR. LEVIN: I did not know, your Honor, it had been out of your possession.

THE COURT: I did not either.

MR. LEVIN: As a matter of fact, when we adjourned here two weeks ago --

THE COURT: I thought it was kept in my safe in my office.

THE WITNESS: I never had that bucket in my hands.

MR. STRAUS: It was, I recall, quite a number of weeks ago when ^{he} we went down there. It was prior to the first hearing.

THE COURT: He said about a week ago.

MR. STRAUS: Are you accurate about that?

THE WITNESS: Just about the time I paid no attention much to it. I was so busy night and day.

Q (By Mr. Levin): A week ago was the day after Christmas, wasn't it?

A Oh, well, I know it wasn't then.

THE COURT: Where did it come from this morning?

Q (By Mr. Levin): When you say you saw it about a week ago you are wrong on that, aren't you?

A As far as the date, I might be wrong on that --

Q I did not ask you anything about dates. You said about a week ago.

A Yes.

Q That is about a day after Christmas?

A No, I did not see it then.

Q When did you see it, about?

A I would have to do some thinking.

Q Was it a month ago?

A No, I don't think so; about three weeks I think.

Q Is your opinion as to how long this thing has been in the ground as accurate as your statement that you saw it a week ago?

THE COURT: That is not a proper question.

MR. STRAUS: We object to it.

THE COURT: Sustained.

MR. STRAUS: Your Honor, at the conclusion of the last hearing I think we informed the Court we were going to produce Mr. Kavanagh as a witness and he had seen it at that time.

THE COURT: Yes, but he said a week ago. They are testing him on his accuracy.

Q (By Mr. Levin): When you say this thing was buried at least fifty years ago, you are simply making a guess, aren't you?

A No, I have handled copper come out of the ground in my time and I have handled a great deal of it. I know a little about corrosion, and all of that, and from the appearance I seen that bucket in at the time I seen it in the property room is a little different than at the time I see it now. Your coloring, your verdegriis and your blue-stone were more distinct on the inside of that bucket. Now, the longer that bucket is out and exposed to the air and everything, that changes the appearance of that article al-

together.

Q Well, I don't disagree with you on that.

THE COURT: In what way does the air change it.

THE WITNESS: It is the oxygen in it. It dries it out and bleaches the discoloration away.

THE COURT: Does it make it more green or less green.

THE WITNESS: No, less green.

Q Do you know how long it had been exposed to the air before you saw it?

A No, I would not be able to say that.

Q So the exposure after it was found, handling by the police, and all that sort of thing, that would have an effect on it too, wouldn't it?

A Well, I don't know about the fingering effect. You can take a person who perspires and has the least bit acid in the blood, they can put their hand on a piece of copper and it will leave the impression there and turn green.

Q Now, assuming this thing had been exposed to

the air a number of times before you saw it in the property room, that exposure itself would work such changes?

A It helps to dry the discoloration.

Q So you did not see this immediately after it was taken out of the ground?

A Oh, no.

Q Your opinion is therefore based on having seen it after it had been exposed a number of times?

A I am basing my opinion on when I saw it then.

Q Your testimony is that it has been buried at least fifty years?

A That is what.

Q What maximum do you put on that?

A That is about as long as I would put on it.

Q Would you deny it had been buried eighty-six years?

A No.

Q It could have been buried eighty-six years, couldn't it?

A It might have been buried one hundred and eighty-six years, if you want to put it that way. I am just

giving you my opinion of it.

Q You are now saying while you think it was buried about fifty years, it could have been buried either eighty-six years or one hundred and eighty-six years?

A Not my opinion, I didn't put it.

Q Whose opinion is it?

A You made that assertion couldn't it have been buried eighty-six years. I told you it could if you thought so.

Q Could this thing have been buried eighty-six years?

A I can't answer that question.

Q Is it impossible for it to have been buried that long?

A I would not answer that.

Q Couldn't you answer it?

A No, I gave you what I thought and you are not going to get me to force some other idea out of my head that I won't say. If you know more about it than I do, you answer the question.

Q Now, we can ask it all over again, Mr. Kavanagh--

A You won't get any different answer.

MR. EBY: I object to that, if your Honor please.

THE COURT: I think you are wasting a lot of time. I think he knows just about as much about the age of this vessel as we can tell by looking at it.

MR. LEVIN: Oh, all right, sir. Step down.

REDIRECT EXAMINATION.

By Mr. Straus:

Q When you saw this utensil in the property room of the Police Department, the corrosion was more evident?

A Yes, sir.

Q As it appeared then, would its appearance indicate that it had been in the ground a longer time than its appearance indicates now?

A When I first seen it then, it looked to me from the moisture and everything that the metal had been in the ground I said then about sixty years.

Q Is that the same it seemed to you then?

A Yes, sir. But then since, to look at the appearance of it -- it would take that air to eat that way. Copper don't eat that way in the ground, there has to be a

great deal of acidity to eat it, and that section is full of it.

Q Have you noticed the construction of that utensil?

A Yes.

Q The evidence of soldering on it?

A Yes, sir.

Q Is that a utensil of a modern make or a make of a considerable time ago?

A No, that vessel was made back -- it is a foreign type kettle used by the foreign class of people. We had them in our shop and used them for tallow pots.

Q Is it a modern make?

A No, it isn't a modern make kettle.

Q What period would you say as to that?

MR. LEVIN: We object unless he knows.

THE COURT: Let us hear it. Exception.

A Those kettles I would not be able to state an age, but I know before I started to learn my trade that type of construction was into existence.

Q When did you start to learn your trade?

A Thirty-five years ago.

Q You started to learn your trade thirty-five years ago?

A Yes, sir.

Q And prior to that those kettles were in existence?

A Those kettles were in existence.

THE COURT: You say it is a foreign make or specially made.

THE WITNESS: Well, foreign people.

THE COURT: You say it was a foreign make, where was it made, do you know?

A It could come from Russia or Germany or could come from Japan. If it was from the Russian trade, it has an old stamp on it -- you would not find that on it because the corrosion would have ate it out.

THE COURT: You never put the dates on them, do you?

THE WITNESS: Oh, no, sir.

THE COURT: You think it is copper, don't you?

THE WITNESS: Yes.

RECROSS-EXAMINATION.

By Mr. Levin:

Q Could you tell what it would have weighed when it was new?

A No, but I would surmise it was made out of fourteen ounce copper. You might get the right thickness there if that seam were opened up where the copper is because that protected the acidity a little bit due to the lead that is in there.

Q Does it look like a cooking utensil?

A I would not say it was a cooking utensil. They used it most for drip pots or something of that sort around the kitchen. Some of them have a bale handle on them. You will find them in the Jewish kitchens today. You will find them today. It could have been used for a cooking vessel, any kind of vessel can be cooked in that is open.

Q (By Mr. Niles): Mr. Kavanagh, where was the handle of it?

A Well, now, I couldn't say whether there was one on there.

Q What is the thickness of copper there?

A You just asked me that question a while ago and I told you what it could be. I could not tell you.

Q What is the thickness of corrosion on it.

A I couldn't tell you that. The only way I can tell is to take it in my hands and take the corrosion off, then I can tell you.

Q You don't know either the thickness of the copper or the thickness of the corrosion ?

A I told you I thought it was fourteen ounce copper.

Q I asked you what was the thickness?

A Roughly I would say about sixty-four hundredths thick.

Q You have not measured it?

A No.

Q And you have not measured the corrosion?

A No, we go by ounces in copper.

Q And you cannot tell now what its condition was when it went into the ground, can you?

THE COURT: Of course not.

MR. NILES: That is all.

REDIRECT EXAMINATION.

By Mr. Straus:

Q You can see the corrosion on there, can you not?

A Yes, certainly.

Q Have you formed a general estimate of the extent of that corrosion?

A I formed it from the way it had been eating through and the condition the pot is in.

Q Then when you gave your estimate of the length of time that the utensil had probably been in the ground, you had the state of the corrosion as it now appears in mind?

A Yes, the corrosion when I first seen that kettle was heavier than it is today.

Q And you stated then you thought it had been in the ground about sixty years?

A That it had been in the ground about sixty years.

THE COURT: Well, now, General, what does all that amount to? It contained coins the oldest of which were 1858, and they were not minted before 1858, therefore

it contained coins of 1858 in it and it has been buried since 1858 anyhow. That is about all he knows and we knew that before he came here.

MR. STRAUS: We knew, of course, that it could not have been buried before that unless coins were added to it. But we wanted additional testimony in, assuming that it must have been buried after 1858, about how long during that long period it was buried, and that is over seventy years ago.

MR. LEVIN: It is eighty-six years ago.

MR. STRAUS: No, 1858 is not eighty-six years ago, my friend is wrong in his arithmetic. That is a little over seventy years ago.

THE COURT: Then we knew more before we had him than we do since.

MR. STRAUS: No, all you knew, your Honor, before we had him was that assuming the coins were in it when it was buried, it must have been there since 1858. But 1858 is a long time ago. The next step is about how long a period during those seventy-six years was it in the ground, and he has given us his opinion on that.

THE COURT: If the 1858 coins were in it when it was buried, then it has been there since 1858.

MR. STRAUS: Not necessarily. It was put in there some time after 1858. It does not mean it was put not there in 1858, but it could have been put there and completed before 1858 because the oldest coin is 1858. It is the interim from 1858 to date that I wanted to inquire into. That is all, thank you.

(Testimony of the witness concluded.)

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THE COURT: Now, you talked the other day about wanting to have a coppersmith shine it up and polish it up. Does somebody want to pay Mr. Kavanagh to do it?

MR. HARRY LEVIN: I don't know whether I want Mr. Kavanagh to do it. There ought to be a mineralogist or something. I suggested that at the last hearing but nobody supported me. We haven't got the money to do it.

THE COURT: Put on the next witness.

MR. STRAUS: Shall we go on with our testimony?

THE COURT: Anybody, so as to save time.

MR. STRAUS: We have some old records here, if the Court please, from which we desire to put some evidence into the record.

THE COURT: Gentlemen, here is a Secret Service man after the gold. I am not going to let him have it now.

MR. STEIN: If your Honor please, at this time we want to show who were living in the house. Now, the testimony has already shown that prior to Mr. Saulsbury acquiring the property in 1865, he acquired title from a man named John J. Mattison.

THE COURT: Just let me interrupt you, I want to put a statement in the record for the purpose of the case. Just take the stand, to complete the record.

Thereupon - - - -

GEORGE A. ALMONY,
a witness of lawful age, being called by the Court, being first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By the Court:

Q Your position is what?

A Operator United States Secret Service.

Q Are you the gentleman who phoned me this morning?

A Mr. Bratton phoned you.

Q And you are after the gold, aren't you?

A Yes, sir.

Q Very hot?

A Well, it is against the law for anyone now to retain these coins in their possession, but whoever your Honor deems worthy of the award we would like to make this arrangement; that we either take the gold from them and redeem it for them, if your Honor does not want to take that responsibility yourself, or we will go with them to the Federal Reserve Bank and have it redeemed for them in currency. In other words, we want to take the gold itself out of circulation so it will cause no more trouble.

Q One point I am interested in, I do not know whether you can help us or not. I understand the record shows there are a great number of one dollar gold pieces in this bucket, quite a large number, four hundred and sixteen one dollar gold pieces. I have the impression, outside of

the record, that as souvenirs, and so forth, and due to the scarcity of one dollar gold pieces, they would demand quite a premium. Do you know anything about that, in a general way?

A I don't know in a general way, but we have found most of these dollar gold pieces that we have come in contact with after the test has been put on them, to be brass. I do not know whether these coins have been tested or not, but the dollar ones and half dollar pieces mostly have all been brass and we very rarely find a genuine gold dollar coin. Of course, these may be genuine coins. I do not know until I put the test on them.

THE COURT: Do any of you gentlemen at the trial table know of what years the one dollar gold pieces are?

MR. HARRY LEVIN: Three hundred and some of them in 1854 I think. There are twenty-four hundred of them.

THE COURT: The point I wanted to call you to the witness stand for is this: Assuming there are twenty-four hundred one dollar gold pieces of the mintage of 1854 or thereabouts and assuming they would normally, if gold, enjoy a premium of two or three dollars apiece, what I am interested in, if these are turned over to the Government at the proper

time under the award of ownership, are they going to get the benefit of the market value of those or do you only propose to redeem them for bullion value? They would no doubt have to make a ruling on that. If they were current coins, I would say no doubt they would get bullion value. Coins of that age -- it is not so much the age, but the one dollar gold pieces have been very scarce for a good many years.

A Of course, as I say, they would have to be tested, we would have to find out whether they are all genuine gold.

Q Would the test destroy the appearance of them?

A Well, it would, it would show right away whether it was genuine or counterfeit.

Q Assuming it was genuine gold, it would not destroy the appearance of the coin?

A No, sir, if it was genuine it would not affect it at all. If it was brass it would turn to a green right away.

Q How is that test made, by laboratory test or chemical test?

A Chemical test.

Q Could it be done here?

A We could arrange to do it here if you want us to do it.

Q Well, I think we would probably.

A If you just specify the time and let us get the material together, it won't take -- well, I guess with all of those coins it would take some considerable time.

Q Well, now, I have Mr. Bratton's address here.

A It is room 340 Post Office. The telephone is Plaza 0184.

Q If it is a proper suggestion to you, would you undertake to start the Governmental inquiry as to what their attitude would be on the redemption of the one dollar and maybe two and one-half dollar gold pieces that have considerable more value than the bullion value or their face value?

A Yes.

Q Do you know, in the case of presentation to the Government, whether the owners ultimately determined would get or lose the benefit of their property in commercial value?

A I will do that if you can furnish me with just the numbers and the dates.

MR.LEVIN: I understand, your Honor, the Gold Act contains a provision where for souvenir purposes you can retain a certain percentage.

WITNESS: Yes, but you should not retain as many as you have there.

MR. LEVIN: Oh, no.

MR. EBY: Isn't there some provision in the Act for retaining them for collection purposes?

MR. LEVIN: Some of them.

THE WITNESS: This is section four, page twenty-two, of this little pamphlet, which is entitled "Gold Reserve Act of 1934." Section four reads: "Any gold withheld, acquired, transported, melted or treated, imported, exported, or earmarked or held in custody, in violation of this Act or of any regulations issued hereunder or licenses issued pursuant thereto, shall be forfeited to the United States and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported in the United States contrary to law."

THE COURT: Well, this isn't the case here.

A Well, we are coming to that, sir: "And in

addition, any persons failing to comply with the provisions of this Act or with any such regulations or licenses shall be subject to a penalty equal to twice the value of the gold in respect to which such violation occurred. No gold shall hereafter be coined and no gold coin shall hereafter be paid out or delivered by the United States. Provided, however, that coinage may be continued to be executed by the Mints of the United States for foreign countries, in accordance with the act of January 29th, 1874, U. S. Code title 31, section 367. All gold coin of the United States shall be withdrawn from circulation."

THE COURT: Well, that isn't what we are interested in. We are only interested in whether there is any provision in that regulation, that you know of, about the redemption of ancient coins.

THE WITNESS: It says, "And together with all other gold owned by the United States, shall be formed into bars of such weights and degrees of fineness as the secretary of the treasury may direct." In other words, this will be melted down into bars.

MR. LEVIN: I will find the section for you, Judge.

THE COURT: I am trying to find out what would be done in the case of a coin that has a very much enhanced value by reason of its being an ancient souvenir. Some of them are a hundred years old on this schedule, 1834. Will you make that inquiry and ascertain.

THE WITNESS: Yes, sir, I will. I would like to take this schedule, if I may.

(Testimony of the witness concluded.)

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THE COURT: Now, Mr. Stein, go ahead with the ancient records.

MR. STEIN: Reading from the Baltimore City Directory for the years 1855 and 1856, we find John J. Mattison sold this property to --

MR. LEVIN: Did the directory distinguish that?

MR. STEIN: It just says, Mattison, Captain John J. 55 South Eden Street.

THE COURT: Who is Mattison?

MR. STEIN: Mattison is the predecessor in title of this property to Mr. Saulsbury.

MR. LEVIN: I think this number was 57 South

Eden.

MR. STEIN: The number was changed later, this is the same property.

THE COURT: What directory is that?

MR. STEIN: Directory 1855-1856. The man's name is Mattison.

MR. STRAUS: He is the person whom the proof has shown conveyed this property to Mr. Saulsbury.

MR. STEIN: Yes. The directory says Mattison, Captain John J. 55 South Eden Street. The next directory for 1858 and 1859, we again find the name of Mattison, Captain John J. 55 South Eden Street.

MR. LEVIN: You skipped 1857, Mr. Stein.

THE COURT: Well, you have 1855 and 1858.

MR. STEIN: We offer those two directories to show who occupied the house during his ownership. Turning to the directory for 1865 and 1866 --

MR. LEVIN: Don't you have the intervening years from 1858 to 1865.

MR. STEIN: I don't have them in Court. That Captain directory contains Mattison, John J. 88 South Broadway, and under Saulsbury, Andrew J., tallow chandler, 138 South Cen-

tral Avenue. That is the directory for 1865-1866.

The next directory is 1867-1868. Mattison, Captain John J., 54 Cortland Street; Saulsbury, Andrew J. tallow chandler, 55 South Eden Street. Now, the directory for 1873, which the testimony shows was the year of Mr. Saulsbury's death, Saulsbury, Andrew J., tallow chandler, 57 South Eden Street; Mattison, Captain John J. 54 Cortland Street.

MR. LEVIN: If Mr. Stein is supposed to be a witness and has examined the record, I would like to make him a witness.

THE COURT: You can call him.

CROSS-EXAMINATION.

By Mr. Harry Levin:

Q Mr. Stein, you have examined these records, you say. Did you examine the directories for 1860, 1861 and 1862, and 1863 and 1864?

A Yes, I examined all the directories of that period.

Q Who did these directories show living in 55 South Eden Street in those years, 1860-1861-1862-1863-1864, during

the Civil War years.

A I will have to consult my records on that.
There was no directory in 1861.

Q How about 1862?

A There was none in 1862.

Q Was there one in 1863 and 1864?

A 1855 and 1856, I have got 1858, I have got 1858 and 1859, Captain Mattison at the same address appears. The directory in 1860 shows Mattison, Captain John J., 55 South Eden Street. In 1863 there was a business directory but no general directory. At least, I do not find any at the Bureau of Legislative references at the City Hall. In 1864 the directory contains the name of Mattison, Captain John J., 88 South Broadway.

Q Now, one other question: Did you make such a search through these books so as to ascertain whether any other person resided at 55 Eden Street?

THE COURT: You could not do that.

MR. LEVIN: Yes, you could, if you went all through the book.

THE COURT: Oh, well, if you took every name.

MR. LEVIN:

That is what I am asking if he did

Some other person might have lived in that house too.

Q You did not examine them in that way?

A No, I did not examine it. I noticed in some of the earlier directories the name of Andrew J. Saulsbury appeared and at other times it was missing. I think the directories were not accurate back in those days.

Q (By Mr. Straus): Mr. Stein, you examined the Land Records with reference to the title to this property, did you not, 55 and 57 South Eden Street?

A I made a partial examination of the Land Records personally.

Q Could you say now who held title to this property?

MR. LEVIN: That is in the record now. John J. Mattison.

Q (By Mr. Straus): To correlate it with your inquiry, isn't it a fact Captain Mattison was the owner of that property in 1859 to 1865?

MR. LEVIN: No, that is wrong, General.

Q (By Mr. Straus): I am speaking of the period for which there is an omission in the directory. Now, we are interested in that period with *reference to that period from*

1858 to 1859, when you say the directory shows that Captain Mattison resided at 55 South Eden Street up to 1865, when you say the directory shows Captain Mattison changed his residence and lived at 88 South Broadway. During that period 1859 to 1865, don't the Land Records show that Captain Mattison was the owner of the premises ?

A Yes, the title was still in his name until he conveyed it on the 22nd of June, 1865 to Andrew J. Saulsbury.

Q (By Mr. Harry Levin): Mr. Stein, aren't you a little previous on that? The Land Records you took in at the last hearing, as I understood, showed that Captain Mattison owned 57 South Eden Street and you are now talking about the directory showing that Captain Mattison owned 55 South Eden Street?

A Well, of course, the Land Records of those days contained no house numbers.

Q But still you said it was 57 South Eden Street. Where did you get that from a couple of weeks ago? In other words, how do you know that this property that he bought was 55 or 57 South Eden Street?

A The Land Records for this lot of ground on Eden Street show that Mr. Saulsbury acquired title in 1865 and

continued in title --

Q Acquired title to what?

A I can read the legal description, if you like.
There is no house number in the deed, of course.

MR. STRAUS: Can you state whether or not that description is the description of the house afterwards known as 57 South Eden Street?

MR. STEIN: Not from my own personal knowledge.

MR. STRAUS: Is there anything to indicate that?

MR. STEIN: Yes, I can say that.

MR. STRAUS: So that that establishes the identity of the two properties.

MR. LEVIN: I don't know whether it does or not, General.

MR. STRAUS: Mr. Stein has been over the records and if it does not, Mr. Stein will say so. That is our understanding of what the record shows. If you want that demonstrated precisely and put into the record, we will be glad to do it.

MRL LEVIN: That is not the point at all. Mr. Stein testified that Captain Mattison drew a deed --

THE COURT: Listen, gentlemen, let us not argue these questions now. If you want to ask Mr. Stein any questions, take the testimony.

MR. LEVIN: I asked Mr. Stein a question.

Q You testified several weeks ago from the Land Records that Captain Mattison owned a certain piece of property which I understood you to say corresponded to 57 South Eden Street. I assume you knew exactly what you were saying when you said that, that the piece of property that Mr. Saulsbury bought from Captain Mattison was 57 South Eden Street, is that right?

A I don't think I testified to that. I think it was Mr. Schmidt. The only house number that appears in the search in the chain of title is the last number, which is 132 South Eden Street. The earlier deeds have no house numbers.

Q How many feet from the corner of Pratt street does it say?

A Beginning on the west side of Eden Street at a

distance of forty feet northerly from the intersection formed by the west side of Pratt Street and east side of Eden street.

Q There is no question about that being 132 South Eden Street?

A Yes.

Q How do you know what number that property was before John Mattison made this deed, was it 57 or 55?

A I have no personal knowledge on that subject, of course.

Q The directories which you have given for the years 1867 and 1868 gives the Saulsburys as living at 55 South Eden Street, whereas the directory for 1873 you said gave it as 57 South Eden, is that right? Didn't you testify, according to the directories in 1867 and 1868, Saulsbury lived in 55 South Eden Street and in 1873 he lived at 57 South Eden Street?

A That is correct.

MR. STRAUS: And he never moved in the meantime.

MR. LEVIN: How would he know that?

MR. STRAUS: Because the testimony is already in. Mrs. Audoun knows that. Mr. Stein, let me ask you this

one question: From the descriptions of this property known at various times as 55 South Eden Street, 57 South Eden street, and 132 South Eden Street, the same in the Land Records?

MR. LEVIN: That is not a correct question. There is no testimony here that this house was known as 132 South Eden Street, 55 South Eden Street and 57 South Eden street. There is no such testimony in the record. When the General puts that question, he is assuming something that has not been testified.

MR. STRAUS: I am not assuming anything at all, Senator. I asked him to take the property which was known as 55 South Eden Street, to take the property which was known as No. 57 South Eden Street, and to take the property which was known as 132 South Eden Street, and to tell the Court whether or not the description upon the Land Records of each of those properties is identical.

THE COURT: Now, the vice in that question is the statement "known as 55 and 57". According to Mr. Stein, as I understood it, there is nothing in the Land Records to indicate what number it was known as. Isn't that correct?

MR. STEIN: Correct.

THE COURT: They assume it was that number because the man's name on that street is listed in the directory as 55 at one time and 57 at another, and 132 at another, and those you couple up with testimony from the members of the family, who say he never moved.

MR. STRAUS: The proof shows that Mr. Saulsbury acquired this property in 1865 and moved into it in 1865, and that he never moved in that entire time into any other property.

THE COURT: He is asking Mr. Stein what he knows from the Land Records. He cannot incorporate in his testimony what the ladies said as to Mr. Saulsbury's pedigree.

MR. STRAUS: Well, assuming, Mr. Stein, that the testimony already in establishes that Mr. Saulsbury moved into the property which he occupied until his death in 1873, that he moved into that property in 1865 and that the Saulsbury family continued to live in the same property until 1885 or 1886, and that that property was the property which Mr. Madison conveyed to Mr. Saulsbury in June, 1865, and having regard to the fact that the directories at one time gave the residence of Mr. Mattison as 55 South Eden street, and at one

time gave the residence of Mr. Saulsbury -- the directory, for example, of 1867 and 1868, gives the residence of Mr. Saulsbury as 55 South Eden street, and then the directory of 1873 gives the residence of Mr. Saulsbury as 57 South Eden street. Now, upon that basis, together with your examination of the conveyances from 1865 to subsequent years, down to and succeeding 1873, are you able to say whether or not the property designated in the directory as the residence of Mr. Mattison in 1855 and 1856 and 1858 and 1859 as 55 South Eden street, and by the directory of 1867 and 1868 as the residence of Mr. Saulsbury at 55 South Eden Street, are you able to say whether or not that property, from all your examinations of the title descriptions and directories, was the same as the property 57 South Eden Street given by the directory of 1873 as the residence of Andrew Saulsbury.

THE COURT: I would have to sustain an objection to that whether made or not. Exception.

MR. LEVIN: We make the objection.

MR. STRAUS: It seems to me if he has examined the records, he ought to be able to tell us.

THE COURT: I think he can sum up all he knows in a few words. Did you find, in your search of the records,

any other conveyance to Mr. Saulsbury except the one you have indicated in 1865, in that block?

MR. STEIN: No, sir, that is the only property which he owned in that block. That is all I can say.

THE COURT: Any other questions of Mr. Stein?

MR. LEVIN: No, sir.

THE COURT: Next witness.

MR. STRAUS: There is some further evidence in reference to the directories, your Honor, which may be stated in a few words.

MR. STEIN: Your Honor, I might say the last change of numbers was evidenced by the property inventory of Mr. Saulsbury's estate, being described or given the number of 57 South Eden Street. That was in 1874 or 1875. The estate was kept open for many years, and on May 10th, 1889, an order of the Orphans' Court to sell the property was obtained, according to the proceedings in volume 89, folio 106. In that Order of Court, the number of 132 South Eden Street was employed.

THE COURT: In the Orphans' Court inventory is the place of residence of the decedent.

MR. STEIN: Well, of course, the Orphans' Court inventory does not show the place of residence.

THE COURT: Well, I mean the property in that estate.

MR. STEIN: Yes, sir. The Orphans' Court inventory shows No. 57 used for the year 1874, and the records for the year 1889 show the number 132 for the same lot. They referred back to the original deed as shown by the Land Records in Liber A. M. No. 277, folio 139. That is the deed from Mattison to Saulsbury.

MR. STRAUS: Your Honor, Mr. Schmidt will take the stand and read into the record the results of his examination of the Land Records.

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Thereupon - - -

J. PAUL SCHMIDT,
heretofore produced, sworn and examined on behalf of the
Saulsbury Estate, was recalled in that behalf and testified
further as follows:

MR. STRAUS: Your Honor, we feel the evidence

will bear upon the question before the Court of the transfers of the property and the conditions affecting the transfers following the death of Mr. Saulsbury, and following particularly the history of the property after it left the Saulsbury family in 1889 or 1890.

THE COURT: Take your testimony.

THE WITNESS: An examination of the Land Records shows that after the deed by which Mr. Saulsbury acquired title from John J. Mattison, on June 22nd, 1865, no further conveyance was made until October 18th, 1889, when Thomas Armstrong, surviving administrator assigned the property in pursuance of an order of the Orphans Court to James A. Saulsbury. The assignment is recorded in J.B. 1263, folio 303.

MR. LEVIN: You testified to that before.

THE COURT: In 1889 is that?

THE WITNESS: Yes, sir. I am just picking up the chain at that point. At that time, or, rather, shortly thereafter, James A. Saulsbury gave a mortgage to his brother, Andrew J. Saulsbury, Jr., which was subsequently released on October 15th, 1890, at which time James A. Saulsbury assigned the property to Henry A. and Barbara Fisher. The assignment

is recorded in J. B. 1314, folio 251. The title remained in the Fishers until it was conveyed by Barbara Fisher to Sheve Baum, May 17th, 1901; recorded in R. O. 1902, folio 21. At the time of that purchase, Sheve and Nathan Baum gave a mortgage to the First Polish American Building Association "Sobieski" for \$2800. The mortgage is recorded in R. O. 1902, folio 22, and is dated May 17th, 1901.

Q Does the deed of assignment show the purchase price?

A No, sir, it does not, except I think there are some stamps on them but it is hard to tell what the stamps represent at this time. Sheve and Nathan Baum assigned the property to a Simon Rief on December 11th, 1902. The assignment is recorded in R. O. 1991, folio 152. The previous mortgage to the First Polish American Building "Sobieski" was released at the time of that assignment and Simon Rief gave a new mortgage to the same association, First Polish American Building Association "Sobieski" for \$2800, the amount of the previous mortgage. That mortgage was released by the First Polish American Building Association "Sobieski" to Simon Rief on February 28th, 1903, recorded in R.O. 2001, folio 257, and

immediately Rief made another mortgage to the First Polish American Building Association for \$1400; recorded in R.O. 2001, folio 260. On August 8th, 1903, Simon Rief conveyed the property to Solomon and Sarah Hurwitz, recorded in R. O. 2031, folio 91. The mortgage of \$1400 then upon the property was released and Simon and Sarah Hurwitz gave a mortgage themselves to the First Polish American Building Association for \$1300. Then on March 22nd, 1904, the First Polish American Building Association released a mortgage which it held upon the property and Solomon and Sarah Hurwitz, on January 23rd, 1906 --

THE COURT: I must say I cannot see the value of all this detailed mortgage business. It has nothing to do with the case.

MR. STRAUS: Your Honor, we feel it has a bearing on this case as showing the financial condition of the people who subsequently occupied the premises.

THE COURT: I will let you take it, but I am thoroughly satisfied it has nothing to do with this case. It is germane as to when the Saulsburys bought it and up to what time it remained in them, and when the Frenchs and Find-

lays acquired it would be germane to the case. All the different mortgages and the details of them, I think, is a useless padding of the record. If you want the testimony I will listen to it.

MR. STRAUS: Your Honor, I just want to say one word in justification of it.

THE COURT: I say if you want it, take it, but I do not think it has a thing to do with the case. I may be mistaken.

MR. STRAUS: I think when the matter is argued, the Court will take a different view. It is to show the status of those who owned the property during the interim that the Saulsburys left the property.

THE COURT: But they are not claimants.

MR. STRAUS: But it is important as showing what their finances were.

THE COURT: I do not think it makes a particle of difference if they are not claimants. Go ahead and take the testimony. I think it is all wholly useless.

A (Continuing): On January 23rd, 1906, Solomon and Sarah Hurwitz mortgaged the property to the North Broadway

Permanent Building Association for \$2400. The mortgage is recorded in R. O. 2205, folio 52. On June 11th, 1906, that mortgage was released and Solomon and Sarah Hurwitz assigned the property to Abraham Weissman and Solomon Rudman, who immediately mortgaged it to the George Washington Permanent Building Association for \$2,000. On July 10th, 1906, recorded in R. O. 2255, folio 126, Abraham Weissman and Solomon Rudman assigned the property subject to the mortgage to Josephine Mendel. On April 5th, 1907, recorded in R. O. 2322, folio 23, Josephine Mendel assigned the property subject to the mortgage to Morris Zimmerman, who at the same time gave a mortgage to Josephine Mendel for \$196, which was released by Josephine Mendel on April 23, 1908. On November 14th, 1908, Morris Zimmerman mortgaged the property to Sarah Burger, for \$2,000, recorded in S. C. L. 2462, folio 429. On October 11th, 1909, the George Washington Permanent Building Association released its mortgage to Morris Zimmerman and Morris Zimmerman on that date mortgaged the property to the Druid Hill Permanent Building Association for \$1430, and at the same time Sarah Burger released her \$200 mortgage. On May 23rd, 1911, Morris Zimmerman again mortgaged the property

to the Druid Hill Permanent Building Association for \$850; recorded in S.C. L. 2660, folio 433. On December 15th, 1915, the Druid Hill Permanent Building Association released both its mortgages to Morris Zimmerman, and on that date Morris Zimmerman mortgaged the property to the German American Fire Insurance Company for \$1700; recorded in S. C. L. 3018, folio 27. On April 2nd, 1917, Morris Zimmerman placed a second mortgage on the property to the Southeastern Savings and Loan Association for \$500; recorded in S.C. L. 3118, folio 369. This second mortgage was released by the Southeastern Savings and Loan Association on September 25th, 1918. On April 29th, 1919, Morris Zimmerman assigned the property to Oscar and Ida Schapiro, recorded in S. C. L. 3352, folio 142.

THE COURT: Mr. Schmidt, how much more is there? I will give you leave to typewrite it and put it into the record.

THE WITNESS: There are about six more conveyances.

THE COURT: Go ahead then.

A (Continuing) Oscar and Ida Schapiro then executed a mortgage to the Southeastern Loan and Savings Asso-

ciation for \$700. The mortgage to the German Fire Insurance Company was assigned November 2nd, 1925, to the Sun Mortgage Company of Delaware. On October 25th, 1927, the Sun Mortgage Company of Delaware assigned that mortgage to the Union Trust. On December 1st, 1928, Ida Schapiro and others mortgaged the property to the Pennsylvania Avenue Permanent Building and Loan Association for \$1170. That mortgage was a second mortgage on the Eden Street property, and a first mortgage on some property on Pratt Street. On December 3rd, 1928, the Southeastern Loan Association released its mortgage to Oscar and Ida Schapiro. On August 8th, 1933, the Union Trust Company, as trustee, assigned the mortgage to the Union Trust Company and Francis P. Wiers, trustee, and on October 19th, 1933, the Union Trust Company and Francis B. Wiers, trustees, released the Morris Zimmerman mortgage. The next matter in the chain of title was the deed of ejectment proceedings by which Mrs. French and Mrs. Findlay acquired fee simple title to the property on December 6th, 1933.

THE COURT: Now, that is the only one of them that has any value. Let us have the exact detail of that.

THE WITNESS: I haven't the exact proceedings

in my hands, it is in evidence.

THE COURT: I thought that was just a judgment of ejectment, but I did not get the basis of the judgment of ejectment, as to how she got the title.

MR. EBY: If your Honor please, she acquired the original ground rent a great many years ago.

THE COURT: That has not been definite. It was just an ejectment proceeding put in.

MR. EBY: I would like to offer that in evidence.

THE COURT: That is legitimate and of some assistance, but I cannot see where all of these mortgages help us any.

(Testimony of the witness concluded.)

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MR. EBY: Your Honor will permit us to offer that a little later, I haven't it right here now.

THE COURT: All right, put it in later.

MR. STRAUS: Your Honor, that concludes our testimony with this exception: There are some references to the current history as to the suspension in 1862 of gold

payments. Of course, all of those matters, I take it, the Court will take judicial knowledge of and it will be competent to refer to them in argument also, the rise and fall of the greenback age and other historical matters. I think there it will be well not to extend the record with the insertion of those things because they are matters of current history and we can call the Court's attention to it --

THE COURT: I see no objection, General, to arguing those questions. If you think they have any bearing up to the point where it is thought they are material and there is no dispute of fact, then I would open the case and take testimony on any point that is at issue and thought to be relevant.

MR. STRAUS: Then that will close our testimony.

MR. EBY: Your Honor, we have no memorandum of the time our client acquired this property.

THE COURT: The date of the judgment of ejectment is in, but that is all.

MR. EBY: I will secure that later, if the Court pleases.

THE COURT: All right, that right is reserved.

MR. EBY: Now, we would like to call Mrs. J. D'Alesandro.

Thereupon - - -

JULIA D'ALE SANDRO,
a witness of lawful age, produced on behalf of the French estate, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Eby:

Q What is your full name?

A Julia D'Alesandro.

Q Where do you live?

A 132 South Eden street.

Q How long have you been living there?

A Since the 2nd of January. The day after Christmas we moved into 132 South Eden street.

Q You mean the 2nd day of January, 1934, don't you?

A I mean the day after Christmas.

Q December 26th, 1933, was it?

A Yes, sir.

THE COURT: Do you mean a year ago or last week?

THE WITNESS: A year ago.

Q (By Mr. Eby): What apartment do you occupy there?

A First floor rear.

Q You and your mother?

A My mother and sisters and brothers.

Q From whom do you rent that apartment?

A American Realty Company.

Q Have you ever been in the cellar of that property?

A Well, I was down there a week after we moved in. The pipes busted and we called Mr. Kalis --

THE COURT: He asked you whether you were ever in the cellar, yes or no.

THE WITNESS: Yes, sir.

Q (By Mr. Eby): How many times did you go down in that cellar?

A I went down there three times.

Q The first time was about a week after you moved

in there, is that right?

A Yes, sir.

Q What was the occasion for going down then?

A To show the plumbers how to get down to the pipes.

Q Mr. Kalis sent a plumber down there?

A Yes, sir.

Q Where were the pipes located?

A Under our floor in back.

Q That is, under the rear part of the house?

A Yes, sir.

Q In the place there where the gold was found?

A Yes, sir.

Q And you went down with this plumber to show him the place?

A Yes, sir.

Q Was the door then locked or unlocked?

A Mr. Kalis, before we moved in, told us if we needed the key -- the door was locked, if we needed the key to call him up ---

MR. HARRY LEVIN: We object to what was told her.

THE COURT: Strike it out.

THE WITNESS: That he had the key.

Q (By Mr.Eby): When you went down there at that time the door was locked, was it?

A I showed the plumbers where it was at and went back with them --

THE COURT: Did you see the door locked on that occasion or not?

THE WITNESS: The door was closed, I don't know whether it was locked or not.

Q Did anybody have a key at that time?

A Mr. Kalis was the only one had the key.

Q Did the man have the key with him when he came down?

A I don't know, I didn't go down with him to open the door.

Q You went down some other time, didn't you?

A Yes, sir.

Q How many times?

A Twice.

Q Did you go down with the workmen?

A No, I went down with two neighbors. The water pipe busted, we had to go down to show them how to close it off.

Q Was the door locked then?

A The door was closed at that time, it was not locked any more.

Q When was that?

A That was a few weeks after the plumber was down there.

THE COURT: When was it? The first time was in December 1933, how long after did you go down the second time?

THE WITNESS: A few weeks after that.

THE COURT: Two weeks after?

THE WITNESS: Yes, sir.

THE COURT: At that time the door was closed but not locked?

THE WITNESS: Yes, sir.

Q (By Mr. Eby): When you went down the third time was the door locked?

A The door was open -- it was closed but not

locked full.

THE COURT: Was it closed or open?

THE WITNESS: It was not locked, it was open.

THE COURT: What do you mean by open.

THE WITNESS: The latch was not on it.

THE COURT: Was it ajar?

THE WITNESS: No, it was closed.

THE COURT: Closed but not locked?

THE WITNESS: Yes, sir.

THE COURT: What kind of latch was it on
there?

THE WITNESS: A latch that you put on a door.

Q (By Mr. Eby): Was it a padlock?

A Padlock.

THE COURT: That was not locked?

THE WITNESS: That was not locked, the lock
was gone.

Q (By Mr. Eby): Didn't you tell me when the
plumber came down there to fix it he had a key with him?

A I guess he did. I didn't go all the way back
with him.

MR. LEVIN: We move to strike it out.

THE COURT: Strike it out. We want to know what you know, not your guess.

Q Were you down there on any other occasion?

A No, sir.

THE COURT: When was the second time, how long after the first time, weeks or months?

A It was a month or so.

Q (By Mr.Eby): After you moved in there?

THE COURT: No, after the second visit or after the first visit. The first time was in December, 1933?

THE WITNESS: Yes, sir.

THE COURT: That is as near as you can fix it?

THE WITNESS: Yes, sir.

(Testimony of the witness concluded.)

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Thereupon - - - -

BENJAMIN KALIS,
a witness heretofore produced, sworn and examined on behalf
of the French Estate, was recalled in that behalf and testi-
fied further as follows:

DIRECT EXAMINATION.

BY THE COURT: You are the agent for the landlord?

THE WITNESS: Yes, sir.

By Mr. Eby:

Q Mr. Kalis, in the course of the work that you do, do you make a memorandum of estimates and bills and work that you do?

A Yes, sir.

Q Did you make a memorandum or give an estimate for the work you did for Mr. French?

A I did.

Q At 132 South Eden Street?

A Yes, sir.

Q Have you referred to this memoranda, have you looked them up?

A Yes, sir.

Q Can you tell the Court when you gave an estimate to Mr. French --

THE COURT: Where are the memoranda.

Q Have you brought some memoranda with you?

A Only some. I have the rest at the office.
If necessary, your Honor, I can bring it.

MR. HARRY LEVIN: Your Honor, there is still
another objection. This witness has testified --

THE COURT: I want to fix the accuracy of it
by the memoranda that he is now going to testify from, or
is he going to refresh his memory from it, and if he is
going to refresh his memory, I want to see the memoranda.

MR. HARRY LEVIN: Your Honor, this witness
testified before and was exhausted.

MR. EBY: No, he was not exhausted.

MR. LEVIN: Well, you took him off the stand.
This is purely rebuttal.

THE COURT: It may be rebuttal but I want all
the facts.

Q (By Mr. Eby): Do you have the memoranda with
you?

A Not all of them.

Q What have you with you?

A The last time you questioned ---

THE COURT: Answer the question. He asks you
what memoranda you have now and when it was made.

THE WITNESS: Made a year ago, 12/16/33.

Q (By Mr.Eby): can you tell from looking at that memoranda when you made the estimate?

A No, sir.

MR. LEVIN: We object because it is irrelevant anyhow.

THE COURT: I will overrule that. Take the testimony. Exception.

Q You can tell from your memoranda when you made the estimate, can you?

A If I bring my papers in I can. Right here now, I don't remember the exact date.

THE COURT: Just tell what you have with you.

THE WITNESS: I have one page of the book that I took out and that is marked December 1st, 1933.

Q (By Mr.Eby): What does that indicate?

A This is not the first page of the book, this must be the second or third.

Q Have you any memoranda showing what kind of work you did?

A Yes, sir.

Q Does anything indicate that you placed a lock

on the door there in the cellar?

A Yes, sir.

THE COURT: Have you got that with you?

A Yes, sir, I have that with me.

THE COURT: Let me see that paper?

(Paper handed to the Court by the witness.)

THE COURT: Point out that time to me.

NOTE: Witness pointed as directed by the Court.

THE COURT: All right, go back to the stand.

Q (By Mr. Eby): Did you place a lock on the door at the time you made the repairs to the door in the cellar?

A At the time we made --

THE COURT: Just answer that question and don't ramble?

A Yes, sir, we did.

Q What kind of a lock?

THE COURT: A twenty-five cent one, the witness said.

A A twenty-five cent padlock.

Q Was that door kept locked, so far as you know?

A Yes, sir.

THE COURT: What do you mean by "yes, sir"?

Q Who held the key to that lock?

A We did.

Q You sent mechanics down there at different times, didn't you?

A Yes, sir.

Q Did you send a key with them?

A I did. They always got the key from the office until here lately.

Q Did you authorize, as agents for the land owners, the use of the back part of the cellar where this gold was found by any of the tenants at any time?

A No, sir; the cellar is not fit to use by anybody at all.

MR. HARRY LEVIN: We move the last part be stricken out, your Honor.

THE COURT: Let it stand.

Q Have you ever authorized it to be used by any tenant?

MR. LEVIN: Objected to.

THE COURT: You asked him that once or twice before when he was on the witness stand a week ago.

MR. EBY: All right, sir. That is all.

CROSS-EXAMINATION.

By Mr. Harry Levin:

Q Since this hearing a couple weeks ago before his Honor, did you see Mrs. Jones, the tenant?

A I talked to Mrs. Jones this past Saturday.

Q Did you have a conversation with her about how it came about that pictures were taken of the premises?

A No, sir.

Q Are you sure of that?

A Positive.

Q Did you make any statement to her about how much money you received for permitting the pictures to be taken?

A No, sir, I did not receive anything and could not say anything.

THE COURT: Are you the one who put up the partition and swinging door between the front and back part of the cellar?

THE WITNESS: Only we repaired it. The partition was there and the old door was there. We just put

hinges on it and locked it.

THE COURT: If you did not put it up, say so. I asked you a very simple question. Were you the man who put up the partition and swinging door that is said to separate the front part of the cellar from the back part? Yes or no.

THE WITNESS: We put up the door but not the partition.

THE COURT: When did you put up the door?

THE WITNESS: Put up the door December a year ago.

THE COURT: Is it on that sheet?

THE WITNESS: No, sir, I don't think so.

THE COURT: That is the entire sheet for the whole month of December 1933, isn't it? It starts with the beginning of the month and there was a twenty-five cent padlock as of the 16th of December.

THE WITNESS: That is right.

THE COURT: Then where is your door item on the list?

THE WITNESS: The door was there, the old door was there.

THE COURT: You said you put it up.

THE WITNESS: Just put on the hinges.

THE COURT: Where is the memoranda of the repairs, that is, a ledger sheet for the repair of this particular piece of property, isn't it?

THE WITNESS: Yes, sir.

THE COURT: You put hinges on it and repaired it in December 1933; where is the item?

THE WITNESS: We have one on --

THE COURT: Where is the item?

THE WITNESS: We have labor on the 15th on this page.

THE COURT: What does it say?

THE WITNESS: It says labor, then says, connect stoves.

THE COURT: Connecting a stove is not hanging hinges on a door.

THE WITNESS: Your Honor, the man we send on a small job like this is doing most anything, closing a little opening, fixing floors --

THE COURT: Never mind that, I asked you is there anything on your ledger account *account that purports to be*

repairs to this particular piece of property.

THE WITNESS: The only thing I can see here on this ledger, there is labor, then there is connect stoves, then again it says labor, and then another labor.

Q (By Mr. Levin): Tell the Judge what it says?

A It says "Connecting stoves," and then it says, "labor, painting" and then "painting" again.

THE COURT: I saw the sheet, I did not ask you to read everything that is on the ledger page. I asked you can you point to what item and the date of it when you did the repairing that consisted of putting on hinges and hanging and repairing the partition door between the front and back part of the cellar, in December, 1933.

THE WITNESS: I see a lot of labor here, your Honor, and no doubt the man who was doing all of those small jobs on there put the door on.

THE COURT: Then you just guess one of those labor items might be it, is that it?

THE WITNESS: Your Honor, I am not guessing. When a man goes down on small jobs like that --

THE COURT: Then which one is it?

THE WITNESS: It should have been one of these

labor items, but I can't say.

THE COURT: Then say you don't know.

THE WITNESS: To be positive, I can't say.

THE COURT: Well, we are talking about being positive, you are under oath.

THE WITNESS: I can't say the date.

THE COURT: If you cannot say it, simplify it by saying so.

THE WITNESS: Your Honor, the only thing I can say --

THE COURT: Just wait a minute. According to this ledger sheet, which begins the first of December, 1933, and ends on that side of the page with the 28th of December, same year, and is carried over to the back of the page, there are only three labor items that I find on it and those three show definitely and distinctly what they are. On the 15th of December, "Labor connecting stove; labor, painting; labor, painting;" \$2 for one, \$2.20 for the other and \$1.84 for the other. Do you mean to say that the items of connecting stoves and the item of labor for painting are really for putting hinges on and hanging a partition door and that

you wrote it down on the ledger for painting.

THE WITNESS: No, sir, here is what I mean, your Honor, if you will allow me to answer you. When a man goes out on a job, especially when it is contracting, we don't specify just exactly what the man is doing through the day, just so we give him credit for his time that he is putting in on like say 132 South Eden Street, and we give one or two items of what the man was doing, because actually it does not make any difference to the owner what we charge it for because it is contracting.

Q (By Mr. Eby): Now, you gave an estimate in the beginning, didn't you, for this work?

A \$602.

Q And that was all the work you were going to do there?

A Yes, sir.

THE COURT: Where is your estimate?

THE WITNESS: I haven't got it with me, your Honor, I have it at the office.

Q (By Mr. Eby): Can you get it around here?

A In the next ten or fifteen minutes.

Q Does that estimate show anything with *reference*

to these doors?

A It says doors, floors, windows, everything.

THE COURT: Does it show that as to this door?

THE WITNESS: I couldn't very well say.

THE COURT: Well, you knew that is what you were coming on the stand to try to prove this morning, didn't you?

THE WITNESS: No, sir, I did not. Mr. Eby just asked me did I have anything to show about a lock and I said yes.

THE COURT: Was the door hung and the hinges put on that you refer to between the front and back part of the cellar at the same time and the same day the lock was put on or was it at a different time?

THE WITNESS: I could not say.

Q (By Mr. Eby): Mr. Kalis, did you go down there to make an inspection after the work was done?

A I did.

Q When you did that, did you notice that the door was hung on the hinges and that there was a lock placed there?

A After the work was done down there I went down there personally myself, and then the owner of the property before he paid us the money, inspected the property.

Q Did you know at the time of that inspection that the door was hung and that there was a lock provided for?

A Yes, sir, at that time.

Q When was that?

A That was in January of last year.

Q January, 1934?

A January, 1933 -- January, 1934.

Q Will you go around and get those records?

THE COURT: There is no use getting them today, we are going to adjourn in a half hour?

A On the first page of this ledger it may show that the man put this door on but I would not want to say that.

THE COURT: You go right down and get them and come back.

(Examination of the witness suspended.)

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Thereupon - - -

BESSIE JONES,
a witness heretofore produced, sworn and examined on behalf
of Jones and Grob, was recalled in that behalf and testified
further as follows:

DIRECT EXAMINATION.

By Mr. Harry Levin:

Q You are the mother of Theodore Jones?

A Yes, sir.

Q Did you see Mr. Kalis and talk to him last
Saturday?

A Yes, sir.

Q Where did you see him?

A In his office.

Q Where is that?

A 406 Saratoga Street.

Q Who was there beside you and him?

A Just myself. I went over to pay my electric
bill.

Q And what did he tell you?

A Well, I was asking him questions -- he spoke
to me first on behalf of the money, what I figured on doing

with it if I got it, and I told him I had not thought of it yet and then he said something about we can thank them for the luck in moving us into the building, and then I spoke to him and said, "I don't believe the parties which I heard were going to fight", and then he said, "Why did they pay us five or six hundred dollars for having the cellar photographed if they were not going to fight?"

Q Did he say they paid him five or six hundred dollars for the photographs?

A Yes, sir, for photographing the cellar, and that was all done since it was found.

THE COURT: That is at least above NRA prices.

THE WITNESS: And there wasn't no door hung there when we moved in and no hinges on it and no locks on it.

THE COURT: When was this door put up?

THE WITNESS: It was put on there after the gold was found.

THE COURT: How do you know that?

THE WITNESS: Because I was in the cellar.

THE COURT: How soon after?

THE WITNESS: Well, I heard the party in the front part say there was a lock placed on the door and we have electric meters back there and I have a washing machine and an electric percolator --

THE COURT: I do not want to know all that. I asked you how long before this gold was found?

THE WITNESS: Well, my fuse was burned out.

Q (By Mr. Levin): Well, how long after the gold was found?

A About a week after.

THE COURT: What was there before?

THE WITNESS: There had been an old door setting there, standing up against the building. There was no door hung there at all.

THE COURT: Just standing?

THE WITNESS: Just standing.

THE COURT: And the place was open in between?

THE WITNESS: Yes, sir.

THE COURT: And after the gold was found they came up and put hinges on the door or hung it?

THE WITNESS: Yes, sir.

CROSS-EXAMINATION.

By Mr. Eby:

Q When did you move into that apartment?

A Between the 8th and 12th of January, 1933.

Q And you say Mr. Kalis had this conversation you speak of in your apartment?

A No, sir, it was in his office.

Q Who else was there at the time?

A Oh, just myself. I went there to pay my electric bill.

Q Are you sure there was nobody else there but you and Mr. Kalis?

A Well, his cousin or nephew or some relation of his and there was some lady sitting there.

Q Wasn't there a cousin of Mr. Kalis there?

A That is the man who collects the rent. I guess he is some relation.

A Who is said to have paid this five or six hundred dollars that you speak of?

A Mrs. French and Mrs. Findlay or those two women.

Q To whom was it paid?

A To the Realty Company.

THE COURT: This is information you got from Mr. Kalis?

THE WITNESS: Yes, sir.

(Testimony of the witness concluded.)

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Thereupon - - - -

BERNARD KALIS,

a witness of lawful age, produced on behalf of the French estate, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Niles:

Q Mr. Kalis, are you a cousin to the Mr. Kalis who just testified?

A Yes, sir.

Q And you are in the business of collecting rents for the American Realty Company?

A Right.

Q Were you in the office of the American Realty

Company last Saturday when Mrs. Jones was there?

A I was.

Q Did you hear a conversation between your cousin and Mrs. Jones?

A There was no conversation at all.

Q Did you see her come in?

A Yes.

Q What did she do?

A She paid an electric bill for sixty cents that we paid for her.

Q Who did she pay it to?

A She paid it to the office.

Q To what person in the office?

A To me.

Q Were you present all the time when she was there?

A Yes, sir.

Q Were you in a position where you could have heard any conversation between her and your cousin?

A I don't know. Some words were passed, just some words, you know.

THE COURT: What were they?

THE WITNESS: I could not remember exactly.

THE COURT: What were they about?

THE WITNESS: Oh, something about the property but I can't remember exactly what it was.

THE COURT: Well, now, wait a minute. You came up here first and swore there was no conversation had between them, that she paid her sixty cents electric bill and went out.

THE WITNESS: There was no conversation, it was just a few words passed.

THE COURT: But it was about the property?

THE WITNESS: Yes, sir.

THE COURT: What was it?

THE WITNESS: It was just a couple words I could not remember, your Honor.

THE COURT: I must say I do not like that order of testimony.

Q (By Mr. Niles): Mr. Kalis, did you hear anything said about photographs?

A No, I did not.

Q Did you hear anything said about money being

paid to the American Realty Company for allowing photographs to be taken?

A No, sir.

Q Were you in a position where you could have heard anything if it had been said on that subject?

A Sure.

Q How long was Mrs. Jones there?

A About fifteen minutes.

THE COURT: Was she talking during that time about the property?

THE WITNESS: I don't know. I remember me making a remark to her --

THE COURT: Answer my question. Was she talking about the property?

THE WITNESS: No, she did not, your Honor.

THE COURT: You just swore she did a minute ago.

THE WITNESS: There was just a couple words passed.

THE COURT: You keep saying a couple words but you undertake to say she said something about the property.

THE WITNESS: Yes, she did.

THE COURT: What did she say?

THE WITNESS: I couldn't remember.

THE COURT: Why do you say it was about the property if you can't remember anything she said?

THE WITNESS: It was something in connection with her electric bill.

THE COURT: You said a while ago it was in connection with the property.

THE WITNESS: I mean the property. She pays the electric bill on that particular property where she lives.

THE COURT: What did she say about the property?

THE WITNESS: I couldn't remember, your Honor.

THE COURT: Why did you say her conversation was something about the property?

THE WITNESS: Yes, exactly.

THE COURT: What was exactly.

THE WITNESS: I couldn't remember, your Honor.

THE COURT: Mr. Niles I think this man comes

dangerously near to being guilty of perjury.

MR. NILES: Your Honor, I knew nothing about Mrs. Jones' statement and just put him on the stand.

THE COURT: I am not saying anything to you, but that is the impression he puts on me, that he is not telling the truth.

THE WITNESS: I am telling the truth your Honor.

THE COURT: No, you are not. Is there anything else you want to ask?

MR. EBY: Step down.

(Testimony of the witness concluded.)

Thereupon - - - -

BENJAMIN KALIS,
heretofore produced, sworn and examined on behalf of the French Estate, was recalled in that behalf and testified further as follows:

DIRECT EXAMINATION.

By Mr. Niles:

Q Mr. Kalis, have you seen any money for allowing

photographs of this property to be taken?

A No, sir.

Q Were you present when the photographs were taken which have been offered in evidence?

A Will you repeat that.

THE COURT: Were you there when they took the photographs of the property?

THE WITNESS: I just took the man down there and went away.

Q (By Mr. Niles): Has anybody offered you any money for allowing photographs to be taken?

A Not a thing, sir.

Q In particular, has Mrs. Findlay or Mrs. French offered you money?

A I don't know the people.

Q Has Mr. French offered you money for allowing photographs to be taken in the property?

A No, sir.

CROSS-EXAMINATION.

By Mr. Harry Levin:

Q Did you tell Mrs. Jones that you have been

paid money for it?

A No, sir, never had any business to tell her anything like that.

MR. EBY: Did you have any conversation in your office with Mrs. Jones such as she testified to?

THE WITNESS: No, sir, wrong. Absolutely she is wrong. If I would get money I would not go and tell Mrs. Jones, that would be my business.

Q (By Mr. Levin): Did you discuss with Mrs. Jones that in the event this money would be awarded to her that you would like to buy a property for her? That you would like to be the agent in negotiating the sale of a piece of property to her? Did you talk to her about that?

A No, sir, I did not talk to Mrs. Jones about anything at all but the electric bill and nothing else.

Q You talked to her fifteen minutes?

A I did not talk to her fifteen minutes. We have the electric bill in our name that Mrs. Jones used, as she could not put up \$5. She is paying us sixty cents a month minimum charge of sixty cents a month. Last month Mrs. Jones claimed she had the radio and iron and everything using elec-

trio, and that is why the bill ran up to \$1.20. She paid to our collector twenty cents and refused to pay until she could come in and see the bill. She walked in last Saturday and Mr. Kalis, my cousin, who was just the stand, was in. She asked for the bill. At that time it must have been around two thirty and the girls were gone and I started to look around where the gas bills were and finally I found it and showed her she paid sixty cents to the collector. She paid me sixty cents and walked out.

Q You heard your cousin on the stand, didn't you? He said you were talking to her about the property?

A I can't see what he means --

Q You simply state you did not talk to her about the property?

A No, sir.

MR. NILES: All right, that is all.

(Testimony of the witness concluded.)

MR. EBY: That is our case excepting those records.

THE COURT: What are the facts about taking

the photographs, who had them taken, who took them and how much did they cost.

MR. NILES: The photographs were taken by the Hughes Company at my request, and they cost \$35, and I have the bills. I would like to offer these bills in evidence.

THE COURT: All right.

(Papers referred to were thereupon marked and filed in evidence as Exhibit French No. 7 and Exhibit French No. 8.)

MR. NILES: Mr. Jackson and Mr. Scott are the gentlemen I dealt with.

THE COURT: Now, what other testimony is there available to take now?

MR. LEVIN: We have none, sir.

THE COURT: Then that temporarily, with this reservation, closes those three claims. Now, I ask in open Court what other lawyers are there here representing other claimants or defendants in the case? They were all notified by letter from me of the fixing of the date for the taking of testimony, so that all of those who are out of town might know in advance at which time and place the hear-

ing would be resumed, so that if they were coming as witnesses or as counsel, their trip might not be in vain. Now, who is here?

(No response.)

THE COURT: Then I will assume there are no others, as nobody speaks up.

MR. HARRY LEVIN: And the records show that no other claims have been filed.

NOTE: Not concluded, to be resumed at a later date.

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Saturday, January 19th, 1935.

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Hearing in the above entitled cause was resumed on Saturday, January 19th, 1935, at ten fifteen a. m.

Present: Counsel for the respective parties.

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MR. EBY: Now, if your Honor please, I want to read a statement here your Honor requested us to let you know about, how the title to this property was acquired. We will introduce in evidence --

THE COURT: You just read it to me and file that as the testimony.

MR. EBY: I will do that.

(Paper referred to was thereupon read by Mr. Eby and marked and filed in evidence as Exhibit French A.)

THE COURT: Now, do you want to take any oral testimony?

MR. EBY: Yes, sir. Mr. Kalis, will you bring your records up here?

Thereupon - - -

BENJAMIN KALIS,
whose examination was suspended, was recalled and testified
further as follows:

DIRECT EXAMINATION.

By Mr. Eby:

Q Mr. Kalis, you have been sworn and have
testified at previous hearings in this case?

A Yes, sir.

Q Now, at the last hearing the Court requested
you to bring some records into Court with reference to some
work done at 132 South Eden Street?

A Yes, sir.

Q Have you produced those records?

A Yes, I have them now.

Q Do you have a record showing the estimate you
made of the work you were going to do there?

A I have.

Q Will you produce a copy of it?

MR. HARRY LEVIN: We object unless the formalities are complied with.

MR. EBY: I am going to try to comply with

the formalities.

Q This letter, dated November 15th, 1933, addressed to me by the American Realty Company, Incorporated, that is your corporation?

A That is right.

Q Is that a carbon copy of the original estimate you made on the work you did on the Eden Street property?

A Yes, sir.

Q This was made in the regular course of your business?

A Yes, sir.

MR. LEVIN: Mr. Eby, I am objecting to the carbon copy.

THE COURT: The estimate would not be evidence in any event unless he is able to say that he got the contract and executed it and did that work as per estimate.

Q Did you do the work at 132 South Eden Street, as per this estimate?

A Yes, sir.

MR. LEVIN: We object to that.

(Objection overruled; exception noted.)

MR. EBY: I offer this copy in evidence.

MR. LEVIN: I object to it.

THE COURT: I do not think I will admit the whole estimate. If you can pick out particular items which you say or he says are of importance in this case -- I do not know what the estimate is or what it deals with, you know.

MR. EBY: It deals with the whole job of repairs and alterations at 132 South Eden Street.

THE COURT: We are only interested in one feature of it, and that is whether it bears on the partition and door and lock.

Q Mr. Kalis, does this estimate include the work of repairing the partition door in the cellar?

MR. LEVIN: We object to that.

THE COURT: I will take an answer yes or no to that.

A Yes, sir.

Q Are you referring to the estimate --

MR. LEVIN: Wait a minute. That is not in evidence.

MR. EBY: I have offered it in evidence.

MR. LEVIN: We object to it now.

THE COURT: I will not admit the paper in evidence. I will allow him to testify whether there is anything in that estimate which enables him to refresh his recollection as to the doing of a particular piece of work, such as the partition or the door or the lock on it, and if so, to point out where that is, what he is able to swear that he did.

Q (By Mr. Eby): Mr. Kalis, you have said the estimate included the work of repairing the partition door in the cellar. Will you point out just each item that is covered by that work?

A It says "Repair doors --

MR. LEVIN: We object to the reading from there.

THE COURT: Yes, I am not going to allow him to read from there unless he is able to testify that that refreshes his recollection as to the doing of a particular piece of work, which he is able to swear he knows from that that he did that particular thing.

Q Let me ask you this question: Before you made this estimate, did you go down to these premises and see

what work was required to be done?

A Yes, sir.

Q Did you go into the cellar?

A Yes, sir.

Q Did you observe this partition and the doorway there?

A Yes, sir.

Q Was the door on or off at that time?

A The door was off at that time.

Q Did your estimate include repairing that door and replacing it?

MR. LEVIN: Mr. Eby, will you stop leading him? Every question you ask has been leading. We object.

THE COURT: I sustain the objection. Ask him what he did. He ought to know.

Q Tell the Court what you did. You went there and examined it and state what you observed?

MR. LEVIN: Mr. Eby, we are objecting to the leading questions.

THE COURT: Yes, you must not lead him.

A Before this work was contracted, we went down and examined everything that was necessary to be done to the

premises. We also found that the door in the cellar was off and that was put on by one of our men.

MR. LEVIN: Did you see him put it on?

THE WITNESS: Yes, sir.

Q (By Mr. Eby): You went there after the work was done, did you, to examine it?

A Yes, sir.

Q Was the door on then?

A Yes, sir.

MR. LEVIN: You are still leading, Mr. Eby.

THE COURT: When did you go?

THE WITNESS: We went there the last part of -- around -- between the 15th and 20th of December.

THE COURT: Which was it?

THE WITNESS: One day. I can't remember the exact date.

THE COURT: Well, it was all done when you went, was it?

THE WITNESS: Yes, sir.

Q (By Mr. Eby): Mr. Kalis, what other records did you keep in connection with this work?

A Everything the estimate shows to be done to

the premises. We have everything here.

Q You have a ledger here. What is that?

A This is supposed to be our repair ledger or work ledger.

Q Does that ledger include the work you did at 132 South Eden Street?

A Yes, sir.

MR. LEVIN: Objected to as leading.

THE COURT: Sustained.

Q Refer to that ledger and tell us what it shows with respect to work at 132 South Eden Street?

MR. LEVIN: Objected to as leading.

THE COURT: Let him answer that. Exception.

A It shows here a contract in 1933--

MR. LEVIN: Who wrote that?

THE WITNESS: The bookkeeper.

MR. LEVIN: We object.

Q This was done in the regular course of the business, was it?

A Yes, sir.

MR. LEVIN: We object to him reading what the

bookkeeper wrote.

THE COURT: It is a bookkeeper's transaction and probably done in the regular course of the business.

Q Were those records made at or about the time the work was done?

A Yes, sir;

MR. LEVIN: How do you know? You say yes, sir, right off the bat, did you see it done?

THE WITNESS: Nothing is done in this book unless I know it because I manage the job.

MR. LEVIN: How do you know it was put in right after the work was done?

THE WITNESS: This was put in there during the time the work was done.

MR. LEVIN: Did you see him put it in?

THE WITNESS: Yes, sir.

MR. LEVIN: You watched him and saw him do it?

THE WITNESS: Yes, sir.

MR. EBY: Well, I don't think all that is necessary, Mr. Levin.

Q Will you state what your ledger shows with respect to work done at 132 South Eden Street?

THE COURT: Didn't we have all of that the last time he had his ledger with him?

MR. LEVIN: Yes, sir.

Q (By Mr. Eby): You brought what sheets of the ledger relating to that work?

A The last time I only had one sheet.

Q Why did you have only one sheet the last time?

A I was requested to bring a record of a lock that was purchased on December 16th. The bill for the lock was pasted on one of the pages.

Q So that you brought only one page of the ledger the last time?

A Yes, sir.

Q Is there any item in there that shows work done in connection with the doorway in the cellar?

MR. LEVIN: Objected to as leading.

THE COURT: Well, that is leading, but it has been done now. Try to avoid leading him, Mr. Eby. Mr. Levin has been objecting right along to your leading the witness.

MR. EBY: All right, sir.

A Yes, sir; this ledger will show where the work was done.

Q Point out any such item in there?

A On December 1st we have carpenter.

THE COURT: Just offer the ledger and let it speak for itself. I do not want his interpretation.

MR. EBY: I want to offer this in evidence, if your Honor please.

THE COURT: The item carpenter work does not mean anything in particular, just like his other item of labor. You could not tell what he worked on.

MR. EBY: I will offer this ledger in evidence so far as these sheets pertain to the work.

(Papers referred to were thereupon marked and filed in evidence as Exhibit French B.)

Q Who did this work for you down there?

A Oh, we had a lot of men working down there.

Q Who did the carpenter work?

A Maybe two or three men working there in the building as carpenters; not exactly all carpenters.

THE COURT: He does not know who did it except

it was one of their carpenters.

Q One of your carpenters did the work?

A Yes, sir.

Q Have you anything pertaining to the purchase of a lock or a bill here?

THE COURT: You had all of that the last time.

MR. EBY: I want to offer it in evidence.

THE COURT: It was offered in evidence. One twenty-five cent padlock.

THE WITNESS: That is right, sir.

(Paper referred to was thereupon marked and filed in evidence as Exhibit French C.)

THE COURT: We had all of that in evidence before.

MR. EBY: We did not have the receipt, your Honor.

THE COURT: Yes, you did, I saw it.

MR. EBY: It was not marked.

Q Under what heading on that ledger would the work of hanging the door in the cellar be?

A It should be under carpentering.

MR. EBY: I think that is all.

THE COURT: The last time he made a guess on it, he guessed it was under labor.

Q (By Mr. Eby): Did you have any labor items in there?

A Yes, sir.

Q Would this be under labor or carpenter work?

A Well, it could be under labor too, because when we send a man, he can put a door up as well as he can glaze or anything else.

Q Does your ledger show any subsequent work on this partition door after you have completed the job down there?

A Yes, sir.

Q At any subsequent time?

A Yes, sir.

Q What does it show?

A On April 19th, 1934, we repaired a cellar door.

Q What date is that?

A On April 19th, 1934.

THE COURT: How does it read there.

THE WITNESS: It says "Putting up fence and re-

pairing cellar door."

THE COURT: April, 1934?

THE WITNESS: April, 1934.

Q (By Mr.Eby): What else did you do, if anything, in connection with that door?

A Oh, there was a whole lot of work, different dates.

Q No, I mean pertaining to that door?

A On the same day?

Q Any day?

A It shows on the 16th of April, 1934, key and lock but it does not say what door.

Q How do you account for that?

A Possibly the man went down there --

THE COURT: Do not guess, we want testimony.

A I could not say for sure.

Q What was your object in putting that lock on the door, the cellar door?

MR. LEVIN: Objected to.

THE COURT: I think we went all over that before.

MR. EBY: All right, sir. I think that is all.

(Testimony of the witness concluded.)

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THE COURT: Now, gentlemen, do I understand the testimony is or is not concluded?

MR. EBY: We have closed.

THE COURT: They have closed. Now, Mr. Shea, you wanted to make a statement. Give your name and the client whom you represent.

MR. SHEA: The claimant is Anna M. Klunk. May it please the Court, on behalf of the Plaintiff, Anna M. Klunk, I have very diligently searched the records and tried in every way to produce a claim in Court that would give us a real legal right to possession of this gold, and counsel for some of these claimants have helped me in many respects to search the records, but I am afraid we are unable to find sufficient evidence to produce our claim and, therefore, we want to withdraw our petition or else have it disposed of as the Court sees fit.

THE COURT: You would rather accept the testimony that came out that the house your client lived in was probably the one next door rather than this one, is that it.

MR. SHEA: I find there was a Wilson lived next door but it was after the time our folks are supposed to have lived in that neighborhood. Nevertheless, I cannot find any proof that would be of a substantial nature, and rather than take up the Court's time or my client's time here from Chicago, I thought we had better withdraw it.

THE COURT: All right. Are there any new litigants or new claimants that desire to be heard before we go into the law and facts on argument? There is no response. Therefore, I assume nobody else wants to be heard.

Now, gentlemen, before you start your argument I have a little good news for somebody. It is a little tentative in shape yet, but I think it will be verified. At least, I have asked it to be verified so that I can put it in the record over the signature of Mr. Flynn, United States Attorney, as the result of a suggestion I made at the time the agent wanted to take the coin away at the last hearing, and I suggested there ought to be some equity with the United States occasionally, and that if these one dollar coins had increased values, it would hardly be a fair thing, as the man on the street uses fairness and

equity to take them at their numerical value if they had a higher value, and I asked him to take a copy of the schedule and confer with the authorities in Washington and find out what their attitude was as to the redemption of these coins, and he advised us just before ten o'clock this morning. I talked to Mr. Bratten, the Secret Service Agent, on the phone and I had my stenographer take down my interpretations of his answers, which amount to this:

That the photostat copy of all the coins that I furnished him he has compared with a catalogue value of those coins, which value represents, according to his information, the ultimate price that those coins have been sold for to the ultimate consumer or redemption man, and that that has probably a higher value than an individual today would get if he were out peddling them. The sum total is that I have enhanced the pot to this extent. He says the catalogue value of the entire coins, according to that list, today is \$27,872.50, which is a little more than double, I think, the amount in the pot.

Then on the second proposition, the one I was primarily interested in, on behalf of those who are found

to be the owners, you will recall there were about twenty-eight hundred one dollar gold coins in the entire lot. He says of those, from his scanning of this list, that four hundred and twenty-one of those one dollar gold pieces in this pot, according to this list, on which it is said the date cannot be found or deciphered and that that fact of not having a date visible bears on the market value of them, and that by reason of the illegible character of the date, they would not demand a premium in the local market and would only be received at their face value, that then he would require that those be redeemed by the Government at their face value. But as to all others of the twenty-eight hundred one dollar pieces that have a market value in excess of the numerical value, I was told he thought they were worth two or three dollars apiece. He says they would permit whoever it is awarded to retain the entire twenty-eight hundred ones that have dates on them and to sell them for whatever they could get for them. I asked him if he would have Mr. Flynn confirm that by letter. It may be he has overstated it. I do not know. There is at least some progress.

Now, gentlemen, we can proceed with the argument on the facts of the law.

MR. STEIN: If your Honor please, we desire to offer the City Directory for the years 1853 and 1854, which shows on page 199, Mattison, Captain John J. Eden near Pratt, supplementing our evidence of the other day.

(Book referred to was thereupon marked and filed in evidence as Exhibit Saulsbury No. 12.)

(Argument to the Court followed.)

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